

## **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

COLLEEN O'DONNELL, )  
Plaintiff, )  
-v- ) CIVIL ACTION NO.  
ALBERTO R. GONZALES, )  
Attorney General, )  
U.S. Department of Justice, )  
Defendant. )  
04-40190-FDS

THE ORAL DEPOSITION OF COLLEEN O'DONNELL LAVORATO,  
held pursuant to Notice, and the applicable provisions of  
the Federal Rules of Civil Procedure, before Marilyn  
Franklin, a Court Reporter and Notary Public, within and for  
the Commonwealth of Massachusetts, at FMC Devens,  
Ayer, Massachusetts, Massachusetts, on Wednesday,  
August 24, 2005, commencing at 10:05 a.m.

**PRESENT:**

On Behalf of the Plaintiff:

DAWN D. McDONALD, ESQ.  
Cooley, Shrair P.C.  
1380 Main Street, Fifth Floor  
Springfield, MA 01103  
(413) 735-0750

On Behalf of the Defendant:

DAMIAN W. WILMOT, Assistant U.S. Attorney  
U.S. Attorney's Office  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3100

Also Present:

ERIKA TURNER, Office of General Counsel

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[1] Q Do you recognize that document?  
[2] A Yes.  
[3] Q Can you identify it for me please?  
[4] A It's when I first applied for the Bureau.  
[5] Q Okay. Is that submitted with the application, [6] this form?  
[7] A I don't remember.  
[8] Q Okay. Can you turn to the second page there. [9] Does your signature appear on that page?  
[10] A Yes.  
[11] Q It's there how many times?  
[12] A Three.  
[13] Q Can you read the dates of your signature?  
[14] A June 24, 1998. May 1, 1998 and August 31, 1998.  
[15] Q Do you know why you would have signed this on [16] three different occasions?  
[17] A No.  
[18] Q Okay. Anything in that document that is [19] inaccurate?  
[20] A No, not that I am aware of.  
[21] MR. WILMOT: Okay. I am going to show you what [22] has been marked as Exhibit No. 5.  
[23] (DOJ Exhibit No. 5 was marked for [24] identification.)  
[25] BY MR. WILMOT:

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[1] A Actually we were located, the prison wasn't built [2] yet, and we were located in a warehouse down the street.  
[3] Q Okay. Do you remember who you reported to at that [4] time?  
[5] A No I don't.  
[6] Q Okay. Do you remember if you received any [7] training when you first began as a corrections officer?  
[8] A Yes.  
[9] Q What training did you receive?  
[10] A I received three weeks of in-house training, which [11] included CPR and firearms and self defense. And then I did, [12] I'm sorry, it was two weeks training, in-house training.  
[13] Q Two weeks, okay.  
[14] A Two weeks. And then three weeks training in [15] Glyco, Georgia at the Federal Law Enforcement Training [16] Center.  
[17] Q Okay. During the two week training, in-house [18] training that you had here at FMC Devens, were you trained [19] on the agency's EEO policies?  
[20] A I don't remember.  
[21] MR. WILMOT: Okay. I am going to show you what's [22] been marked as I am going to give you the next few [23] actually. Maybe just those two. I am going to show you [24] what has been marked as Exhibit No. 6. [25] //

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[1] Q Do you recognize that document?  
[2] A No I don't.  
[3] Q Okay. Is that your signature of this document?  
[4] A Yes.  
[5] Q And is your signature dated?  
[6] A Yes. They typed in or somebody typed in the date.  
[7] Q You say you don't recognize that document?  
[8] A No I don't.  
[9] Q If you could turn to paragraph 6 of your [10] complaint. It says that on or about August 30, 1998, you [11] began your career at the DOP. Would you have filled out [12] this document perhaps on your first day of employment?  
[13] A Yes I could have. I just don't remember it.  
[14] Q Okay. What position were you hired for?  
[15] A Correctional officer.  
[16] Q Okay. Was that in a particular division or [17] department?  
[18] A Under custody.  
[19] Q And where were you located or situated when you [20] first started?  
[21] A FMC Devens.  
[22] Q Here in Devens?  
[23] A Yes.  
[24] Q Were you located in this main building or were you [25] located at a different site on the campus?

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[1] (DOJ Exhibit No. 6 was marked for [2] identification.)  
[3] BY MR. WILMOT:  
[4] Q Do you recognize that document?  
[5] A No I don't.  
[6] Q Okay. There's handwriting on what appears to be a [7] form. Is that your handwriting?  
[8] A It is, yes.  
[9] Q And is that your signature there?  
[10] A Yes.  
[11] Q And where does your signature appear on the [12] document?  
[13] A Where it says received.  
[14] Q Okay. And is it dated?  
[15] A Yes.  
[16] Q And what is the date?  
[17] A August 31, 1998.  
[18] Q And what does it say that you received on August [19] 31, 1998?  
[20] A I received a copy of the program's statement  
[21] 3420.08CN-01 dated 4-23-1997, Standards of Employee Conduct [22] on August 31, 1998.  
[23] Q Okay. Do you remember if in that document, this [24] Employee Standard of Conduct, whether or not there was any [25] language in there about EEO policies, anti-discrimination,

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[1] etc.?

[2] A I don't remember.

[3] MR. WILMOT: Okay, I am going to show you what [4] has been marked as Exhibit No. 7.

[5] (DOJ Exhibit No. 7 was marked for [6] identification.)

[7] BY MR. WILMOT:

[8] Q Do you recognize that document?

[9] A No.

[10] Q There appears to be a form and there's handwriting on it. Do you recognize the handwriting?

[12] A Yes.

[13] Q And whose is it?

[14] A Mine.

[15] Q There is a signature as well, is that your [16] signature?

[17] A Yes it is.

[18] Q And is it dated?

[19] A Yes it is.

[20] Q By signing this document, what did you acknowledge?

[22] A That I received a copy of Chapter 11 of program statement 3713.13 dated October 22, 1990, Sexual Harassment [24] Prevention Program.

[25] Q Does that refresh your memory that you received

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[1] A Somewhat.

[2] Q Do you recall if there is language contained in [3] the Master Agreement on EEO policies or sexual harassment, [4] anything to that nature?

[5] A I don't recall.

[6] Q Okay. Do you remember what the dates were of the [7] training that you first received when you started your employment?

[9] A My first date of work was August 31, 1998, so I [10] believe that was the date of the training, actually, I know [11] that was the date the training started.

[12] Q Okay. Do you remember when it ended?

[13] A No I don't.

[14] MR. WILMOT: All right. I am going to show you [15] what has been marked as Exhibit No. 9.

[16] (DOJ Exhibit No. 9 was marked for [17] identification.)

[18] MR. WILMOT: You might want to share that with [19] your counsel.

[20] THE WITNESS: Okay.

[21] BY MR. WILMOT:

[22] Q Do you recognize this document?

[23] A This document?

[24] Q Yes. That's been marked as Exhibit No. 9?

[25] A No.

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[1] some material on sexual harassment?

[2] A No.

[3] Q Okay.

[4] A I don't recall.

[5] MR. WILMOT: All right. I am going to show you [6] what has been marked as Exhibit No. 8.

[7] (DOJ Exhibit No. 8 was marked for [8] identification.)

[9] BY MR. WILMOT:

[10] Q Do you recognize that document?

[11] A No.

[12] Q There's handwriting and what also appears to be a form, do you recognize the handwriting?

[14] A Yes.

[15] Q And whose handwriting is that?

[16] A Mine.

[17] Q And does your signature appear on this document?

[18] A Yes it does.

[19] Q And what is the date of your signature?

[20] A August 31, 1998.

[21] Q And what are you acknowledging by signing this document?

[23] A I received a copy of the Master Agreement on the Standard of Employee Conduct.

[25] Q Okay. Are you familiar with the Master Agreement?

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[1] Q Have you seen a document like this before?

[2] A No.

[3] Q Okay. Well it shows here, your name appears on [4] this document. It shows, there's a column that says [5] training dates, do you see that?

[6] A I do, yes.

[7] Q And it shows August 31, 1998 through September 11, 1998 and it says institution familiarization. Do you see [9] that?

[10] A I do, yes.

[11] Q Is that the training that you've been - the [12] initial training that you received when you began at DOP?

[13] A Yes.

[14] Q Okay. If you could go down to April 12, 1999. On [15] that line that says correctional training, annual-DOP. Do [16] you see that?

[17] A Yes.

[18] Q What is correctional training or annual [19] correctional training?

[20] A That is, they refer to it as annual refresher [21] training to go over different parts of the job, computer [22] security, things like that.

[23] Q Do they cover EEO policies during that training?

[24] A Yes, they do.

[25] Q They do. Okay. And this training that says

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[1] annual on it, is it fair to say that you get this refresher  
 [2] training every year?  
 [3] A Yes.  
 [4] Q Is there anytime that you did not receive that [5] annual  
 training during your employment to the present?  
 [6] A Yes.  
 [7] Q Which period is that?  
 [8] A I believe it was in 2003. But I don't know the [9] exact  
 dates.  
 [10] Q That you did not have the refresher training?  
 [11] A Correct. Yes.  
 [12] Q If you go to the bottom of the page, November 21,  
 [13] 2003?  
 [14] A Yes.  
 [15] Q On that line, it says correctional training  
 [16] annual-DOP, would that be the refresher training that's  
 [17] cited there?  
 [18] A I don't know.  
 [19] Q Does seeing that, that you had some training in  
 [20] November of 2003 refresh your memory that you had annual  
 [21] refresher training?  
 [22] A Annual I remember the firearms in November 2003  
 [23] because I was taken out by myself or with a couple of other  
 [24] people. But I don't remember the annual, I don't recall.  
 [25] MR. WILMOT: Okay. Let's see. Mark this 11. Do

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[1] BY MR. WILMOT:  
 [2] Q Can you identify that document?  
 [3] A That's the annual refresher training schedule.  
 [4] Q Do you recognize it?  
 [5] A Yes.  
 [6] Q Okay. If you look at Tuesday on that schedule [7] from  
 9:30 to 10:00, it says "EEO Sexual Harassment [8] Prevention", do  
 you see that?  
 [9] A I do. Yes.  
 [10] Q Does that refresh your memory that you had Sexual  
 [11] Harassment Prevention training?  
 [12] A No.  
 [13] MR. WILMOT: It does not. Okay.  
 [14] I am showing you what has been marked as Exhibit [15] No.  
 15. Take a moment to look at that.  
 [16] (DOJ Exhibit No. 15 was marked for [17] identification.)  
 [18] MR. WILMOT: If it helps, I'm not going to quiz [19] you on  
 it.  
 [20] THE WITNESS: Oh.  
 [21] BY MR. WILMOT:  
 [22] Q I'm not going to ask you details on it. I just [23] want to  
 see if that refreshes your memory that you had [24] sexual  
 harassment training, refresher training in 2001?  
 [25] A No it doesn't.

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[1] I have eleven?  
 [2] (Off the Record.)  
 [3] MR. WILMOT: They get a little out of order before [4] we get  
 to ten and eleven. Let me show you what has been [5] marked as  
 Exhibit these are Exhibits 13 and 14 together.  
 [6] (DOJ Exhibits No. 13 and 14 were [7] marked for  
 identification.)  
 [8] BY MR. WILMOT:  
 [9] Q Can you identify that document?  
 [10] A That's annual refresher training for 2001.  
 [11] Q If you flip to the second page there. Do you see [12] your  
 name on that page?  
 [13] A Yes I do.  
 [14] Q And is your signature on that page?  
 [15] A Yes.  
 [16] Q And what is the date of that?  
 [17] A January 9, 2001.  
 [18] Q Okay. Do you remember during that annual  
 [19] refresher training, you received training on sexual  
 [20] harassment prevention?  
 [21] A I don't remember.  
 [22] MR. WILMOT: Okay. Let me show you what has been  
 [23] marked as Exhibit 12.  
 [24] (DOJ Exhibit No. 12 was marked for [25] identification.)

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[1] Q Okay. Do you remember if you received any [2] training  
 on workplace violence at the annual refresher [3] training in 2001?  
 [4] A 2001?  
 [5] Q Yeah.  
 [6] A I don't recall.  
 [7] Q Okay. Take a look back at the training schedule. [8] If you  
 look at Friday, 12 p.m. to 1:30 p.m. It says there  
 [9] "ethics/standard of conduct" and underneath that it says  
 [10] "staff conduct responsibility and workplace violence." Do  
 [11] you see that?  
 [12] A Yes I do.  
 [13] Q Does that refresh your memory that you had [14] training  
 on workplace violence?  
 [15] A No.  
 [16] MR. WILMOT: Okay. Let me show you what has been  
 [17] marked as Exhibit No. 16.  
 [18] (DOJ Exhibit No. 16 was marked for [19] identification.)  
 [20] BY MR. WILMOT:  
 [21] Q And I ask you the same question, if seeing that  
 [22] document refreshes your memory that you had training on the  
 [23] agency's workplace violence policies in 2001?  
 [24] A It doesn't refresh my memory at all.  
 [25] Q Okay. Now we saw your signature on the sign-in

[1] sheet there earlier. Do you have reason to believe that you  
 [2] were not at that training?  
 [3] A No I was. I believe I was.  
 [4] MR. WILMOT: All right. Let me show you what is [5] marked  
 as Exhibit No. 17.  
 [6] (DOJ Exhibit No. 17 was marked for [7] identification.)  
 [8] BY MR. WILMOT:  
 [9] Q Do you recognize that document?  
 [10] A Yes.  
 [11] Q Can you identify what it is?  
 [12] A Annual refresher training schedule.  
 [13] Q For what year?  
 [14] A 2002.  
 [15] Q Do you have memory of being present at this  
 [16] training?  
 [17] A No. I mean, I'm sure I was. I just don't [18] remember.  
 [19] MR. WILMOT: Okay. I am going to show you what [20] has  
 been marked as Exhibit No. 18.  
 [21] (DOJ Exhibit No. 18 was marked for [22] identification.)  
 [23] BY MR. WILMOT:  
 [24] Q Do you recognize that document?  
 [25] A Yes.

[1] that the Bureau has?  
 [2] A Can you rephrase that question?  
 [3] Q Do you have a memory of having been training [4] during  
 the two days that you just read off on the sign-in [5] sheet of being  
 trained on sexual harassment prevention or [6] any  
 anti-discrimination policies that the agency has?  
 [7] A I don't remember.  
 [8] Q Okay. Looking at the annual refresh training [9] schedule  
 for 2002 which is marked as Exhibit No. 17.  
 [10] A Okay.  
 [11] Q It says for day one, 7:30 to 8:15 Ethics/Standard [12] of  
 Conduct, Sexual Harassment Prevention, do you see that?  
 [13] A Yes I do.  
 [14] Q Does that refresh your memory that you had [15] training  
 on sexual harassment prevention on January, or on [16] the date  
 of this training in 2002?  
 [17] A No.  
 [18] Q Underneath that 9:00, it says Sexual abuse/ [19] Assault  
 Prevention Intervention, do you see that?  
 [20] A Yes I do.  
 [21] Q Do you remember receiving training on that [22] subject?  
 [23] A No.  
 [24] Q In 2002?  
 [25] A No.

[1] Q Can you identify what it is?  
 [2] A It's a sign-in sheet for annual refresher [3] training.  
 [4] Q And does your name appear on that sheet?  
 [5] A Yes it does.  
 [6] Q And did you sign next to your name on that sheet?  
 [7] A Yes I did.  
 [8] Q And what's the date of your signature?  
 [9] A February 8, 2002.  
 [10] Q If you turn to the next page of that document. [11] Can  
 you identify that page of the document?  
 [12] A The sign-in sheet for the annual refresher [13] training  
 2002.  
 [14] Q Okay. And does your name appear on that document,  
 [15] on that page?  
 [16] A Yes it does.  
 [17] Q And did you sign next to your name?  
 [18] A Yes.  
 [19] Q And what is the date of your signature?  
 [20] A February 7, 2002.  
 [21] Q Okay. Can you turn back to the refresher training  
 [22] schedule for 2002?  
 [23] Do you have a memory of whether you received [24] training  
 on those dates that you read off to me? Sexual [25] harassment  
 prevention or any anti-discrimination policies

[1] MR. WILMOT: I am showing you what has been marked  
 [2] as Exhibit No. 19.  
 [3] (DOJ Exhibit No. 19 was marked for [4] identification.)  
 [5] BY MR. WILMOT:  
 [6] Q Can you identify what that document is?  
 [7] A A lesson plan for sexual harassment prevention.  
 [8] Q Does that refresh your memory?  
 [9] A (No verbal response.)  
 [10] Q If you want to take a look at that, and the [11] question is:  
 does that refresh your memory of whether you [12] received sexual  
 harassment prevention training in 2002?  
 [13] A No it doesn't. I don't remember.  
 [14] MR. WILMOT: Okay. I am going to show you what [15] has  
 been marked as Exhibit No. 20.  
 [16] (DOJ Exhibit No. 20 was marked for [17] identification.)  
 [18] BY MR. WILMOT:  
 [19] Q And if you can take a look at that, and the [20] question  
 is: does that - well first, can you identify that [21] document as  
 Exhibit 20?  
 [22] A Annual Training Lesson Plan for 2002 for Sexual  
 [23] Abuse/Assault Prevention and Intervention Program.  
 [24] Q Okay. Can you take a look at that document and [25] let  
 me know if that refreshes your memory whether you

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[1] received training on that subject in 2002?  
 [2] A I don't remember the training.  
 [3] Q Okay, Do you remember attending an annual [4] refresher training class in 2004?  
 [5] A 2004. Yes I do.  
 [6] Q Okay. Do you know what the dates of that training [7] was?  
 [8] A No I don't.  
 [9] MR. WILMOT: I am going to show you what has been [10] marked as Exhibit No. 21.  
 [11] (DOJ Exhibit No. 21 was marked for [12] identification.)  
 [13] BY MR. WILMOT:  
 [14] Q Do you recognize that document?  
 [15] A Yes I do.  
 [16] Q Can you identify it for me please?  
 [17] A Annual Refresher Training Schedule for 2004.  
 [18] Q And what are the dates of that training?  
 [19] A January 6 through February 27, 2004.  
 [20] Q Does reading that refresh your memory as to the [21] dates you attended the training in 2004?  
 [22] A No.  
 [23] Q It does not?  
 [24] A Not the dates, no.  
 [25] Q Take a look at this document here. Exhibit No. 9.

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[1] Q Do you have a memory of Janice Johnson conducting [2] a training class on sexual harassment and EEO policies?  
 [3] A I don't.  
 [4] Q Okay.  
 [5] A I don't remember.  
 [6] MR. WILMOT: That's all right. I am going to show [7] you what has been marked as Exhibit 22.  
 [8] (DOJ Exhibit No. 22 was marked for [9] identification.)  
 [10] BY MR. WILMOT:  
 [11] Q Can you identify that document?  
 [12] A Annual training for 2004 for sexual harassment [13] prevention and EEO.  
 [14] Q Okay. Can you look at that document and let me [15] know in reviewing it if it refreshes your memory that you [16] received training on sexual harassment and EEO policies?  
 [17] A Actually, yes I do.  
 [18] Q It does. Okay.  
 [19] A It does. I just don't remember if Janice Johnson [20] was the one who did it.  
 [21] Q Okay.  
 [22] A But I do remember.  
 [23] Q Okay. Do you remember receiving training on [24] sexual abuse/assault prevention?  
 [25] A No, I don't recall.

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[1] If you turn to the second page of Exhibit 9.  
 [2] The dates there say March 2, 2004 to March 5, 2004 [3] for the Correctional Training/Annual which you said earlier [4] was the annual refresh training. And looking at that does [5] that refresh your memory as to when the training could have [6] been?  
 [7] A No.  
 [8] Q Do you remember if the training was in January at [9] the beginning of the year or March?  
 [10] A I honestly don't remember.  
 [11] Q Okay. But you do have a memory of attending?  
 [12] A Yes I do.  
 [13] Q Do you remember whether or not you received [14] training on sexual harassment prevention and EEO policies?  
 [15] A I sort of do, I kind of do, but not really.  
 [16] Q Okay. Well, looking at Exhibit 21, it shows that [17] on Wednesday at 7:30, it says sexual harassment prevention [18] and EEO, does that refresh your memory that you sat through [19] that training?  
 [20] A A little, it does.  
 [21] Q Okay. It has a name there, J. Johnson. Do you [22] know who J. Johnson is?  
 [23] A Yes I do.  
 [24] Q Who is that?  
 [25] A Janice Johnson.

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[1] Q Okay. And looking at Exhibit 21, it shows that [2] there was a class at 7:30 on sexual abuse and assault [3] prevention and intervention.  
 [4] Does that refresh your memory that there was such [5] a class that you sat in on?  
 [6] A I believe there was such a class that I sat in on [7] but I don't remember and I don't remember the warden being [8] there and that's why I'm confused at that.  
 [9] MR. WILMOT: I am going to show you was has been [10] marked as Exhibit 23.  
 [11] (DOJ Exhibit No. 23 was marked for [12] identification.)  
 [13] BY MR. WILMOT:  
 [14] Q And can you identify that document?  
 [15] A That is the lesson plan for the annual training [16] 2004 for sexual abuse/assault prevention and intervention [17] program.  
 [18] Q Can you look through that and see if that [19] refreshes your memory that you received training on that [20] subject in 2004?  
 [21] A Yes, I did received training on it.  
 [22] MR. WILMOT: Okay. I am going to show you what [23] has been marked as Exhibit 10. Catching up with our numbers [24] here.  
 [25] (DOJ Exhibit No. 10 was marked for

[1] identification.)  
 [2] BY MR. WILMOT:  
 [3] Q Do you recognize that document?  
 [4] A Yes.  
 [5] Q Can you identify it for me please?  
 [6] A That is I acknowledged that I received the [7] standards of employee conduct.  
 [8] Q Okay. And there's handwriting on this form. Is [9] that your handwriting?  
 [10] A Yes it is.  
 [11] Q And does your signature appear on this page?  
 [12] A Yes.  
 [13] Q And what is the date of your signature?  
 [14] A March 5, 1999.  
 [15] Q Do you have a memory of receiving the standards of [16] employee conduct in 1999?  
 [17] A No.  
 [18] Q Okay. Do you remember signing the document?  
 [19] A No.  
 [20] MR. WILMOT: Okay. I am going to show you what [21] has been marked as Exhibit 11.  
 [22] (DOJ Exhibit No. 11 was marked for [23] identification.)  
 [24] BY MR. WILMOT:  
 [25] Q Do you recognize that document?

[1] started until today the different positions that you've been [2] through here at the agency?  
 [3] A Okay. I started off as a corrections officer and [4] I'm not sure of the dates but then I was a senior officer.  
 [5] Q And what department were you a senior officer?  
 [6] A In custody.  
 [7] Q Okay.  
 [8] A My duties were basically the same. And then I was [9] hired on as an inmate systems officer.  
 [10] Q And what department is that position in?  
 [11] A Inmate Systems Management.  
 [12] Q Is that your current position?  
 [13] A Yes.  
 [14] Q Okay. Starting back when you were hired as a corrections officer in custody, do you remember who you [16] reported during the timeframe of when you were hired until [17] you became a senior officer?  
 [18] A It was the shift lieutenant. I don't - whoever [19] was on.  
 [20] Q That would be your immediate supervisor?  
 [21] A Yes.  
 [22] Q Do you have a second line supervisor after the [23] shift lieutenant?  
 [24] A Yes, actually it's called an activities [25] lieutenant.

[1] A Yes.  
 [2] Q Can you identify what it is?  
 [3] A That is employee conduct, standards of employee [4] conduct.  
 [5] Q Do you have a memory of ever receiving that [6] document?  
 [7] A Receiving it, no.  
 [8] Q You do not. You said you had seen it before?  
 [9] A Yes.  
 [10] Q Do you know how you came to see that document?  
 [11] A I believe this was sent to me while I was out. [12] This I know was sent to me and I don't remember where I saw [13] this.  
 [14] Q Do you know by whom it was sent to you by?  
 [15] A I believe HR. Human Resources.  
 [16] Q Okay. Do you have a memory as to when HR sent it [17] to you?  
 [18] A I don't. I know it was, no, I don't.  
 [19] Q Okay. But you do remember HR sending it to you?  
 [20] A Yes I do.  
 [21] Q Okay. Now, you testified earlier that you were [22] hired as a corrections officer. And at some point, did your [23] title change or your station change?  
 [24] A Actually both.  
 [25] Q Why don't you take me through from when you

[1] Q Is the activities lieutenant above the shift [2] lieutenant?  
 [3] A No. Actually the shift lieutenant is, the shift [4] lieutenant runs the shift and the activities lieutenant [5] assists the shift lieutenant in running the shift.  
 [6] Q Okay. So who did you report to?  
 [7] A The shift lieutenant or it depends on who is [8] behind the desk. It could have sometimes the activities [9] lieutenant.  
 [10] Q And who did the shift lieutenant report to?  
 [11] A The captain.  
 [12] Q And who did the activities lieutenant report to?  
 [13] A The captain.  
 [14] Q And who was the captain in 1998?  
 [15] A Michael Bollinger.  
 [16] Q Okay. And has that changed in your employment?  
 [17] A No.  
 [18] Q Okay. He has been a captain for that entire time [19] of your employment?  
 [20] A Yes.  
 [21] Q Okay. You said you became a senior officer. Do [22] you remember when that happened?  
 [23] A No I don't.  
 [24] Q Is that a position you apply for or is that an [25] automatic promotion?

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[1] A It's an automatic promotion.  
[2] Q Okay. Do you know what triggers the automatic  
[3] promotion to senior officer?  
[4] A Yes.  
[5] Q And what is that?  
[6] A It's your GS level. Once you're a GS 7 you're  
[7] considered a senior officer.  
[8] Q And how did you become a GS 7?  
[9] A Just stayed here. I believe I started off as a GS [10] 5 so it  
had to take me two years to become a GS 7. It goes [11] on years,  
the steps.  
[12] Q Okay. So you became a GS 7 based on the length of  
[13] your employment?  
[14] A Yes.  
[15] Q And do you remember when you became an inmate  
[16] systems officer?  
[17] A I don't remember the exact date, no.  
[18] Q Okay. Do you remember who you reported to when  
[19] you became an inmate systems officer?  
[20] A Yes.  
[21] Q And who was that?  
[22] A There was two. Steve Gagnon and Fernando Messer.  
[23] Q Can you spell Steven Gagnon's last name?  
[24] A G-A-G-N-O-N.  
[25] Q You said Fernando Messer?

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[1] Q Who do you report to now?  
[2] A Anthony Amico.  
[3] Q And who else?  
[4] A Steve Gagnon.  
[5] Q Okay. And what is Anthony Amico's title?  
[6] A Assistant Inmate Systems Manager.  
[7] Q Okay. So he at some point took over Fernando  
[8] Messer's position?  
[9] A Correct, yes.  
[10] Q Okay. And did he take that after Fernando Messer  
[11] left or was this someone in the interim?  
[12] A It was after he left.  
[13] Q Okay. And Mr. Amico reports to Mr. Gagnon?  
[14] A Yes.  
[15] Q And can you describe what your duties and  
[16] responsibilities are as an inmate systems officer?  
[17] A Okay. Well, there's actually two parts. We work [18] in  
receiving and discharge. We process inmates in. And we  
[19] process inmates out. Like identifying them and printing  
[20] them and taking their picture. Calling the appropriate [21] staff  
down. You talk to them. Medical counselors, [22] psychologists.  
Property given out, property given to [23] inmates.  
[24] And on the other hand, I am also working the, [25] we're in  
charge of the mail room of our department and then

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[1] A Yes.  
[2] Q Can you spell Fernando Messer's last name?  
[3] A M-E-S-S-E-R.  
[4] Q So you reported to both of these persons?  
[5] A Yes I did.  
[6] Q In any order?  
[7] A Yes, it depended on who I saw first.  
[8] Q What is Fernando Messer's title?  
[9] A I don't know his title now.  
[10] Q Okay. What was his title at the time you became [11] an  
ISO?  
[12] A An Assistant Inmate Systems Manager.  
[13] Q And what was Steve Gagnon's title at the time you  
[14] became an ISO?  
[15] A Inmate Systems Manager.  
[16] Q So is it fair to say that Mr. Messer reported to [17] Steve  
Gagnon?  
[18] A Yes.  
[19] Q Okay. And you reported to Mr. Messer?  
[20] A Or Steve Gagnon. Both of them.  
[21] Q Okay. Now you said at some point your reports  
[22] changed. When did that happen? The persons you reported  
to [23] at the time you became an ISO was Steve Gagnon and  
Fernando [24] Messer. Is that the case today?  
[25] A No, no.

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[1] the mailroom; it's going through, looking up inmates, seeing  
[2] where their housing units are. Going through mail to make  
[3] sure there's no contraband and putting inmates aside.  
[4] Certain inmates aside for SIS.  
[5] Q And what is SIS?  
[6] A Special Investigation Services.  
[7] Q So in the mailroom, if you're screening the mail [8] as you  
described and you found something, you put that aside [9] for  
SIS?  
[10] A Correct, yes.  
[11] Q Okay.  
[12] A Well, actually, depending on what it is. It could [13] be  
just nuisance contraband, then no. But if it's hard [14] contraband,  
then we put it aside or gang related stuff for [15] SIS.  
[16] Q What would be nuisance contraband?  
[17] A Excess newspapers, clippings, that's considered  
[18] nuisance.  
[19] Q Okay. Are there regulations as to what is [20] nuisance  
and what is hard contraband as you described it?  
[21] A No. I mean, yes. Hard contraband is drugs, gang  
[22] related stuff. If you read something in a letter that you  
[23] think they might be trying to escape or things like that.  
[24] Q Okay.  
[25] A We consider that to put away for SIS.

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[1] Q Now when you became an inmate systems officer, I  
[2] am going to start calling you an ISO.  
[3] A Okay.  
[4] Q When you became an ISO, where was the receiving  
[5] and discharge activities performed?  
[6] A In the office. We have an area right past control [7] center  
that is a pretty big office that everything I [8] performed in there for  
receiving and discharge.  
[9] Q In relation to, well let's call this main building [10] that  
we're sitting in, I guess the main building compound.  
[11] Is the receiving and discharge office located in [12] this main  
building?  
[13] A Yes it is.  
[14] Q Okay. And the mail room functions you described,  
[15] where are those performed?  
[16] A When I first started down here, it was in the main  
[17] building and then after 9/11, it was an outside building.  
[18] Q Okay. So when you first started, when you say you  
[19] first started, do you mean when you first started as an ISO?  
[20] A Yes.  
[21] Q Okay. So there was a period of time where you  
[22] performed the mail functions it was done in this main  
[23] building?  
[24] A Yes.  
[25] Q Okay. And you said it was moved to another

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[1] Q Anything else?  
[2] A No.  
[3] Q If you were walking from the main institution to [4] the mail  
room, and think about that walk in your mind, what [5] do you  
pass on the way?  
[6] A The parking lot.  
[7] Q So you have to walk through the parking lot?  
[8] A Yes.  
[9] Q Okay.  
[10] A There's actually two ways to get there so.  
[11] Q Well, why don't you tell me one way?  
[12] A Okay.  
[13] Q And then we'll get to the second one?  
[14] A You go straight down where you drive in. You [15] would  
walk straight down. The parking lot would be on your [16] right.  
[17] Q You have to be as descriptive as possible because  
[18] this is being written down.  
[19] A Oh, okay.  
[20] Q Okay, so say you're doing hand gestures, take any  
[21] of that out.  
[22] A Okay. Walk out of the main building. Go straight  
[23] pass the parking lot. When you're at the end of the parking  
[24] lot, you take a left and then the building is maybe ten,  
[25] fifteen feet, maybe a little bit more on the left.

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[1] location?  
[2] A Correct. Yes.  
[3] Q Where is that?  
[4] A That is, it's outside, like down this little [5] pathway from  
the institution. It's not attached to the [6] institution at all.  
[7] Q Do you know how far away it's from the institution [8] or  
this main building?  
[9] A About a five minute walk, if that.  
[10] Q Do you know in terms of distance, how far away it [11] is?  
[12] A Maybe a hundred feet. I'm just guessing though.  
[13] Q One hundred feet?  
[14] A Yeah, I'm guessing.  
[15] Q And you said it's down a pathway?  
[16] A Well, down this road leading into the institution. [17] You  
would take that road and then you would take a left and [18] it's  
right over there.  
[19] Q Okay. Is there anything in between the main  
[20] institution and the mail room?  
[21] A Yes.  
[22] Q What?  
[23] A The landscape building.  
[24] Q The landscape building?  
[25] A Yes.

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[1] Q Okay. And you said there's a second way to get [2] there?  
[3] A Yes. You walk out the main building. You walk by [4] the  
parking lot and there's a set of woods on the left. [5] There's a little  
pathway that you can walk through and will [6] end up right in the  
mail room.  
[7] Q Okay. Now the beginning of that pathway you just  
[8] described, is that in relation to the parking lot, is that [9] on the  
end closest to the institution or is that near the [10] end of the  
parking lot?  
[11] A I've never walked that way so I don't really know.  
[12] Q Oh, okay.  
[13] A I've never done that.  
[14] Q How would you normally go back and forth between  
[15] the main institution and the mail room?  
[16] A It's depending on what my schedule is. If I'm the  
[17] only person, I have an inmate orderly pick me up here at the  
[18] institution and drive me to the mail room with the outgoing  
[19] mail, or if I'm at a different position where I'm just going  
[20] into the mailroom to help, I just drive right from home. I  
[21] go right into the mailroom.  
[22] Q Okay. And is that how you got back and forth  
[23] between the institution and the mailroom back when you first  
[24] started as an ISO?  
[25] A Well, no. Because the mailroom was inside when I

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[1] first started.

[2] Q Okay. Well, when it moved to this new location, [3] was that how you were getting back and forth between the [4] main institution and the mailroom?

[5] A Yes.

[6] Q Okay. As you testified, the parking lot from the [7] main institution to the mailroom, is a hundred feet long?

[8] A That's a guess, I don't know approximate or [9] anything too good.

[10] Q Okay. I am going to show you - mark this as [11] let's see here. This is going to seem like a slate [12] question, have you ever been to a football game before?

[13] A Yes, one.

[14] Q With the parking lot in mind and your memory of a [15] length of a football field, could you fit a football field [16] in that parking lot?

[17] A I think so, I don't know.

[18] Q Do you know a football field is a hundred yards?

[19] A No.

[20] MR. WILMOT: Okay. Let me show you what is marked [21] as Exhibit 24.

[22] (DOJ Exhibit No. 24 was marked for [23] identification.)

[24] THE WITNESS: Okay.

[25] BY MR. WILMOT:

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[1] Q Do you recognize that document?

[2] A Yes.

[3] Q Can you identify what it is?

[4] A It's my job description for inmate systems [5] officer, GS 7.

[6] Q Okay. Can you take a moment to look through that?

[7] A Sure.

[8] Q And what we're going to ask is whether or not that [9] document accurately describes what your duties and [10] responsibilities are?

[11] A Okay.

[12] (Witness reviews document.)

[13] BY MR. WILMOT:

[14] Q Do you remember my question?

[15] A No.

[16] Q My question was: does this position description [17] accurately describe what your duties and responsibilities [18] are as an ISO?

[19] A Yes.

[20] Q Are there things in here that you disagree with?

[21] A No. I would say not that I can see. Everything [22] in here I've believed I've done.

[23] Q Okay. Is there anything that you would add to [24] this that it does not include?

[25] A No, not that I can think of.

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[1] Q You described earlier that you performed the [2] receiving and discharge functions in the receiving and [3] discharge office here in the main institution, the main [4] facility.

[5] Q Are you aware whether or not you could perform the

[6] receiving and discharge functions elsewhere in the compound?

[7] Q Is that possible?

[8] A Elsewhere in the compound?

[9] Q Let's say you wanted to perform your functions in [10] receiving and discharge but you didn't want to do it in that [11] office, is that a possibility?

[12] A No, it's not.

[13] Q And let's say you wanted to perform the mailroom [14] functions. Could you do that somewhere else in the compound [15] other than in the mailroom office?

[16] A No.

[17] Q You could not?

[18] A No.

[19] Q Okay. Bringing your attention back to your

[20] complaint marked as Exhibit No. 2. Paragraph 7 says David [21] Reynoso is also an employee of the BOP and was a coworker of [22] the plaintiff. The plaintiff and David Reynoso also engaged [23] in a dating relationship. Do you see that?

[24] A Yes.

[25] Q When did you begin dating David Reynoso?

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617-426-3077

APEX Reporting

[1] Q Were you still living with him at any point in [2] time in 2001?  
 [3] A No, I think he moved out but I don't know. I [4] don't remember.  
 [5] Q And what was your address at that time?  
 [6] A 93 Sherman Avenue, Devens, I forget the apartment number.  
 [8] Q And how long did you live at that address?  
 [9] A Under two years. I know that.  
 [10] Q Do you remember whose name the apartment was under?  
 [12] A Mine.  
 [13] Q And why did Mr. Reynoso move out?  
 [14] A We were having problems and he was living there part-time I would say.  
 [16] Q Okay.  
 [17] A Maybe three or four nights a week.  
 [18] Q Okay.  
 [19] A He had half his stuff at his mother's and half his [20] stuff at mine, at our place. But then once they gave an [21] eviction notice, because they were turning them into condos; [22] everyone had to leave.  
 [23] Q Oh, I see. So did he leave at that time or did he leave when you left?  
 [25] A He was living part-time there. He had two

[1] A Yes.  
 [2] Q Can you identify it for me please?  
 [3] A That was a message he left on my machine.  
 [4] Q A message that Mr. Reynoso left on your machine?  
 [5] A Yes.  
 [6] Q And where was this machine located?  
 [7] A At my mother's house.  
 [8] Q And so this is a message, this is an answering [9] machine at your mother's house?  
 [10] A Yes. It was my answering machine. I had my own phone number there.  
 [12] Q Okay. And what is the date of that document?  
 [13] A March 23, 2002.  
 [14] Q Okay. So were you still together with Mr. Reynoso [15] at this point?  
 [16] A Yes.  
 [17] Q Okay. Was there a reason why you saved or you transcribed that message from March 2002?  
 [19] A Well I use to save those messages. Just tried to, [20] tried to get away from him, like I would play them, trying [21] to get away from him. I don't know why, I just put it down.  
 [22] Q Okay. Now you said that you had saved other messages?  
 [24] A Yes.  
 [25] Q Did you transcribe any of those?

[1] addresses I would say.  
 [2] Q Okay. Up until the date that you had to leave, [3] would he still stay there?  
 [4] A Oh yes.  
 [5] Q You continued dating past that point?  
 [6] A Yes.  
 [7] Q Was there a point where your relationship ended [8] with Mr. Reynoso?  
 [9] A It was on and off for a couple, a few years when I [10] was with him.  
 [11] Q Okay. And when was it off? When was the last [12] time it was off?  
 [13] A The last time was April 2002. I believe that's [14] the date.  
 [15] Q And is that the instant you described in your  
 [16] complaint as to when Mr. Reynoso pushed you and kicked you?  
 [17] A Yes.  
 [18] MR. WILMOT: Okay, we'll get to that.  
 [19] I am going to show you what has been marked as [20] Exhibit 25. It's a document that I received in the course [21] of discovery.  
 [22] (DOJ Exhibit No. 25 was marked for [23] identification.)  
 [24] BY MR. WILMOT:  
 [25] Q Do you recognize that document?

[1] A No. I used them for my own personal, to try to [2] get enough strength to break up with him so I would, for [3] myself.  
 [4] Q All right. When you transcribed that message, [5] what did you do with it?  
 [6] A This message?  
 [7] Q Yes.  
 [8] A I believe, I believe I gave it to the warden. I'm [9] not a hundred percent. I believe the warden, I know I [10] showed the warden but I don't remember exactly who I gave it [11] to and what I did with it.  
 [12] Q Do you remember when you transcribed that message?  
 [13] A It was definitely after the incident. I don't [14] remember what date though.  
 [15] Q Okay. So at some point in 2003, you transcribed [16] this message from March 2002?  
 [17] A No. It was actually sometime after April 2002.  
 [18] Q I'm sorry. So after April 2002, you transcribed [19] this message?  
 [20] A Yes.  
 [21] Q But yet, you had saved the message from the date [22] of March 22, 2002 until the point when you transcribed it?  
 [23] A March 23, I saved it. No. Because I transcribed [24] it and I still had it on my machine because my machine [25] allowed for thirty days to hold on, to save my message for

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[1] thirty days. So I had it for those thirty days.  
 [2] Q Okay. All right. So, I'm a little confused.  
 [3] **D**o you know when you listened to that message and  
 [4] transcribed it on paper?  
 [5] A I don't remember the exact date but it was [6] definitely  
 after the April 8 incident.  
 [7] Q Okay. And your memory is that you're the one who  
 [8] transcribed it?  
 [9] A Yes.  
 [10] Q Okay. And are you, is your testimony that you [11] were  
 able to transcribe it after the April 8 event because [12] your  
 machine saved messages for thirty days?  
 [13] A Yes.  
 [14] Q Okay. So is it fair to say you probably [15] transcribed it  
 some point in April of 2002?  
 [16] A Definitely yes.  
 [17] Q Okay. And you said you gave that to the warden?  
 [18] A I did.  
 [19] Q Do you know when you did that?  
 [20] A No.  
 [21] Q Was it in April of 2002?  
 [22] A I don't remember.  
 [23] Q Okay. Well to bring back to you your compliant.  
 [24] In paragraph 8, it says that starting with the [25] second  
 sentence, on April 8, 2002 plaintiff and David

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[1] A SIS office.  
 [2] Q Do you remember what his shift was that day?  
 [3] A Yes.  
 [4] Q What was it?  
 [5] A 8:00 to 4:00.  
 [6] Q Okay. Do you remember when you met with Mr.  
 [7] Reynoso and walked off the property if it was before his  
 [8] duty day started or after?  
 [9] A Oh, definitely after.  
 [10] Q Okay. And do you remember when you and Mr.  
 [11] Reynoso left the property if it was during your duty day or  
 [12] after?  
 [13] A It was during.  
 [14] Q Okay. Can you describe what happened? How did  
 [15] you come to decide to both leave the property together? Can  
 [16] you describe those events?  
 [17] A Sure. I had called him to discuss – I found out [18] that  
 he had been cheating on me. And I called him and he [19] said –  
 and he denied it, and he suggested that we go for [20] coffee to  
 talk. And he picked me up. He came to the [21] mailroom because  
 my car wasn't there. He picked me up.  
 [22] Q And before you move on to the next point, when you  
 [23] were leaving the mailroom, did you let anyone know that you  
 [24] were leaving?  
 [25] A Yes.

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[1] Reynoso left FMC Devens property and went off site to  
 [2] discuss their relationship problems.  
 [3] Do you remember what time you and Mr. Reynoso left [4] the  
 property?  
 [5] A No I don't.  
 [6] Q Okay. Do you remember if it was in the morning or [7] in  
 the afternoon?  
 [8] A I believe it was in the morning.  
 [9] Q Okay. What shift were you working that day?  
 [10] A 6:30 to 3:00.  
 [11] Q Okay. Do you remember if it was in the early  
 [12] morning?  
 [13] A I don't remember.  
 [14] Q Okay.  
 [15] A I remember like, it wasn't at the beginning of my [16] shift  
 but I don't remember the exact time.  
 [17] Q Okay. Where were you working that day?  
 [18] A Mirror.  
 [19] Q In the Mirror office that's located outside the [20] main  
 building?  
 [20] A Yes.  
 [21] Q Do you remember where Mr. Reynoso was working that  
 [22] day?  
 [23] A Yes.  
 [24] Q And where was he working?

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[1] Q Who did you let know?  
 [2] A My coworkers that were in the mailroom with me.  
 [3] Q And who are they or were they?  
 [4] A Brian Padula, Keith MacDonald, Holly Glover. [5] That's all  
 that I can recall that was there.  
 [6] Q Okay.  
 [7] A There could have been more but I don't recall.  
 [8] Q Do you remember telling them why you were leaving?  
 [9] A No, I don't remember.  
 [10] Q Okay. Do you typically have to carry keys to get [11] into  
 the mailroom?  
 [12] A Yes.  
 [13] Q Did you have your keys with you that day?  
 [14] A I don't remember.  
 [15] Q Do you remember before you left, if you took your  
 [16] keys with you or did you give them to someone?  
 [17] A I don't remember.  
 [18] Q Okay. All right. So you said Mr. Reynoso picked [19] you  
 up?  
 [20] A Yes.  
 [21] Q And he was driving what, his car?  
 [22] A Yes.  
 [23] Q What happened next?  
 [24] A He actually came into the mailroom.  
 [25] Q Okay.

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[1] A And then we walked out onto the deck. They have a deck off the mailroom.  
 [2] Q Okay.  
 [4] A And his car was there and he said let's go get a [5] coffee and talk about it. We were arguing though. We were [6] arguing.  
 [7] Q Do you remember what you were saying and what he [8] was saying?  
 [9] A I told him I didn't believe him anymore. That he [10] was cheating on me.  
 [11] Q Was there any physical touching at that point?  
 [12] A No, no.  
 [13] Q Okay.  
 [14] A We got in his car and we started to drive and we [15] were arguing about him cheating.  
 [16] Q And was the interaction still verbal at this [17] point?  
 [18] A Yes.  
 [19] Q Did he hit you in the car?  
 [20] A No.  
 [21] Q Did you hit him?  
 [22] A No.  
 [23] Q Okay.  
 [24] A We went down - he said, he started getting angry. [25] So he pulled off to the right of the road, a place called

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[1] Q Okay. In your upper thigh?  
 [2] A Yes.  
 [3] Q Okay. Now during Mr. Reynoso's duty day, that day [4] in particular, was he wearing a uniform of any kind?  
 [5] A Yes.  
 [6] Q And can you describe the uniform?  
 [7] A White shirt with an emblem with the Bureau of [8] Prisons. And grey pants, black boots. And I don't know if [9] he had his jacket on or not. I don't remember.  
 [10] Q Were you wearing a uniform of any kind?  
 [11] A Yes.  
 [12] Q And can you describe your uniform at that time?  
 [13] A Grey pants, black boots, white shirt with the [14] emblem of the Bureau on the side. Oh, and it says FMC [15] Devens above the front pocket.  
 [16] Q On the left side? The right side?  
 [17] A I believe it's the left side.  
 [18] Q Okay. So you said that he kicked you and then [19] grabbed you and you said you broke loose. What did you do [20] after you broke loose?  
 [21] A I started walking really fast towards the road.  
 [22] Q The road that led to the lake?  
 [23] A Yes.  
 [24] Q Okay. And what happened next.  
 [25] A He pulled up next to me and tried to tell me to

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[1] Mirror Lake which is right down the street from the prison.  
 [2] Q Okay.  
 [3] A And he got out and started pacing. And then I got [4] out and started arguing with him. And then I don't remember [5] the exact, how it - but he assaulted me.  
 [6] Q Can you describe, he's pacing and you're arguing.  
 [7] What happened?  
 [8] A I don't remember the exact order. I know he [9] kicked me and he grabbed me. He was grabbing me. And then [10] I started to walk away and he held on tight and I got loose. [11] I don't know how with arms to get loose and I got loose and [12] I started to take off on foot, and...  
 [13] Q Well let's back up a little. He was pacing and [14] you said he kicked you and you were arguing. How close were [15] you to him when he was pacing and you were arguing.  
 [16] A A few feet.  
 [17] Q Okay. So he stopped pacing and walked over to you [18] and kicked you.  
 [19] A No. He stopped pacing and walked over to me and [20] started arguing with me.  
 [21] Q Okay.  
 [22] A And I don't remember if he grabbed me first or [23] what. I just remember he kicked me.  
 [24] Q And where did he kick you?  
 [25] A In my left thigh.

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[1] get into his car. And I said no. You know, arguing. He [2] just sped off.  
 [3] Q Now, when he asked you to get into the car, what [4] did he say to you?  
 [5] A I don't remember the exact words. I don't [6] remember the words.  
 [7] Q And why didn't you get into the car at that point?  
 [8] A He had hit me and I was upset. I was really upset [9] and I just wanted him to leave me alone at that point.  
 [10] Q When you were upset - after he kicked you, did [11] you continue to argue with him at all, or did you...  
 [12] A Not really, just leave me - yeah. Just leave me [13] alone type of stuff.  
 [14] Q I'll ask more specifically, your arguing about [15] your relationship was prior to the kick; correct?  
 [16] A Yes.  
 [17] Q Did you begin to argue about that again after he [18] kicked you?  
 [19] A You know, I don't remember. I don't remember the [20] exact words. I was so upset that I don't remember.  
 [21] Q And what were you upset about?  
 [22] A Because I didn't believe him. He was cheating on [23] me.  
 [24] Q And so you said you didn't get in the car with him [25] because you were upset. Is that what you were upset about?

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[1] Because he was cheating?  
 [2] A And because he hit me again after he promised me [3] he wouldn't.  
 [4] Q Okay. So he had hit you before?  
 [5] A Several times, yes.  
 [6] Q What happened next after he sped off?  
 [7] A Okay. A state trooper was driving down the street [8] and pulled over and asked me if everything was all right. I [9] don't remember what I said to him. I really don't. But at [10] that point, Reynoso came back around. I don't know if he [11] turned, he must have turned his car around and the state [12] trooper went over to him. And I don't know what was said [13] there I was far away. And he asked me if I wanted a ride, [14] the trooper did.  
 [15] Q Okay.  
 [16] A And the trooper asked me if I wanted a ride back [17] to the institution and I said no, I needed to walk.  
 [18] Q And why did you turn down the ride back to the [19] institution?  
 [20] A I was so upset. I don't remember why. I just [21] remember I was so upset.  
 [22] Q How long of a walk back to the mailroom is it from [23] Mirror Lake?  
 [24] A I actually made it to the training center.  
 [25] Q Okay.

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[1] I just needed, I needed for someone to pick me up at the [2] training center.  
 [3] Q Okay.  
 [4] A And she answered the phone.  
 [5] Q And what happened next?  
 [6] A She picked me up. I was hysterically crying. I [7] told her what happened. She brought me back to the [8] mailroom. We went into the ladies room and she - to see [9] the bruise, to see if there was a bruise and there was.  
 [10] Q Okay.  
 [11] A And Brian Padula, how did it go? Brian Padula [12] asked what had happened and I told him what had happened, [13] and he called - who did he call? SIS, Al Colon.  
 [14] Q And who is Al Colon.  
 [15] A He was at the time, he was - I forgot his title, [16] a tech for SIS.  
 [17] Q Okay.  
 [18] A I don't remember the exact title though. And then [19] I called Fernando Messer who was the Assistant Inmate [20] Systems Manager.  
 [21] Q Okay.  
 [22] A And he came out to the mailroom.  
 [23] Q And do you have a memory as to what time it was, [24] at this point, when all this activity is going on?  
 [25] A I have no idea.

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[1] A Which isn't that far of a walk.  
 [2] Q So you walked to the training center?  
 [3] A Yes.  
 [4] Q Before we get to that point, when the officer was [5] asking you questions, did he ask you if you needed any help [6] or assistance of any kind?  
 [7] A Yes he did.  
 [8] Q And what was your response to that?  
 [9] A No.  
 [10] Q Okay. Do you remember what type of assistance or [11] help did he offer?  
 [12] A I don't. I just remember him asking me if I [13] needed a ride back to the institution.  
 [14] Q Okay. And so when you got back to the training [15] center, what did you do there?  
 [16] A I called the mailroom.  
 [17] Q Okay.  
 [18] A For a ride.  
 [19] Q And someone from the mailroom picked you up?  
 [20] A Yes.  
 [21] Q And who was that?  
 [22] A Holly Glover.  
 [23] Q Okay. Did you call Holly specifically or did you [24] just ask for anyone to pick you up?  
 [25] A I just asked for anyone. She answered but I said

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[1] Q And where was Fernando Messer that day?  
 [2] A He was in his office in the main building.  
 [3] Q Okay. So you called him and he somehow got to the [4] mailroom?  
 [5] A Yes.  
 [6] Q And you spoke to him there?  
 [7] A Yes.  
 [8] Q What did you say to him?  
 [9] A I don't recall everything that I said. I just [10] know him I told him that I was hit or kicked.  
 [11] Q Do you remember what he said to you in response?  
 [12] A I don't. I just know that he said to me to see [13] the captain.  
 [14] Q Okay. And that's Mr. Bollinger?  
 [15] A Yes. In the main building.  
 [16] Q And how did you get to the main building from the [17] mailroom?  
 [18] A Brian Padula.  
 [19] Q Now did you speak with the captain before coming [20] to the mailroom, the main institution, when you were still [21] in the mailroom?  
 [22] A No.  
 [23] Q Did you speak to anyone who is located in the main [24] institution before leaving the mailroom on your way to see [25] the captain?

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[1] A Not that I can recall. Not that I remember.  
[2] Q All right. So Padula drives you to the main [3] building.  
What happens next?  
[4] A He takes me up to see the captain.  
[5] Q Okay.  
[6] A His office is located in this main building but [7] off the compound.  
[8] Q Okay. And did you get to meet with the captain?  
[9] A Yes.  
[10] Q Can you describe that meeting to me please?  
[11] A I told him what happened. I don't remember my [12] exact words. At that point, he called on the radio the [13] special investigation agent, Dennis Duffy, and he came to [14] the office.  
[15] Q When you say called on the radio, what type of [16] radio was that?  
[17] A A radio we communicate with. Like a walkie- [18] talkie.  
[19] Q A walkie-talkie?  
[20] A Yeah.  
[21] Q Okay. So he called Dennis, what's the last name [22] again?  
[23] A Duffy. D-U-F-F-Y.  
[24] Q Okay. And what did he say to Dennis Duffy?  
[25] A That he had to come to his office.

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[1] Q Okay. So your memory is that Padula came and [2] drove with you to the state police?  
[3] A Yes.  
[4] Q And did he drive?  
[5] A Yes he did.  
[6] Q Before you left with Padula, did you meet with [7] anyone else?  
[8] A I know I met with the warden that day but I don't [9] know if it was before or after. I don't remember.  
[10] Q Okay. You have a memory of meeting with the [11] warden?  
[12] A Yes.  
[13] Q Can you describe that meeting for me?  
[14] A I know Cindy Lord was in there. And I don't know [15] who else was in there. And I just, I was crying a lot. I [16] don't - I was hysterical so I don't remember everything [17] that was said.  
[18] Q Do you remember what it was you said to the [19] warden?  
[20] A No.  
[21] Q Okay. Do you have any memory of anything that you [22] said to the warden on that day?  
[23] A He's going to kill me, go to the police that's [24] what I thought, that he's going to kill me.  
[25] Q You said that?

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[1] Q That what?  
[2] A The captain told Duffy that he needed to come to [3] the captain's office. That he needed to come to the [4] captain's office.  
[5] Q And what happened next?  
[6] A He came to the office, and I don't remember if I'm [7] the one who told Duffy or the captain told him, but they [8] told him what happened and he just said, Huh. He just told [9] me he had to leave because he has a family emergency. [10] Reynoso just told me he had to leave because he has a family [11] emergency.  
[12] Q Okay.  
[13] A And then the captain said that I should go to the [14] state police and file a complaint, and they sent Brian [15] Padula with me so I didn't have to go alone.  
[16] Q Okay. Now how much time had passed between the [17] incident at Mirror Lake to when your meeting with the [18] captain started?  
[19] A I don't remember.  
[20] Q Okay. Do you remember what time of day it was [21] when you went to the state police?  
[22] A I don't remember.  
[23] Q Okay. Do you remember if it was near the end of [24] your shift by this point?  
[25] A I don't remember.

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[1] A Yes.  
[2] Q And do you remember what the warden's response was [3] to that?  
[4] A No. I just can only remember telling everyone [5] he's going to kill me. I don't remember his response. No.  
[6] Q Did the warden offer you any assistance at all?  
[7] A Yes.  
[8] Q What did he offer you?  
[9] A To take some time off on admin leave and he [10] offered, he offered to send somebody with me to apply for a [11] restraining order because that was after the state trooper [12] suggested that I do that.  
[13] Q Okay. Did he offer to call a hospital for you or [14] anything like that?  
[15] A I don't remember. I don't recall.  
[16] Q Okay. You were saying just now that he offered to [17] send someone with you to apply for a restraining order, and [18] I think you said that a state officer gave you that same [19] advice to apply for a restraining order?  
[20] A Yes.  
[21] Q Does that refresh your memory as to when you met [22] the warden that day? If it was before or after you went to [23] the state police?  
[24] A I believe it was - I went to the state police [25] twice. So I think it was after the first time.

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[1] Q Okay. So why don't you describe to me the first [2] time you went to the state police?  
 [3] A The first time I went with Brian Padula. He took [4] me to tell them what happened.  
 [5] Q Okay.  
 [6] A And, you know, and then he drove me back to the [7] institution.  
 [8] Q Let's back up a little bit. When you went to the [9] state police, what did you tell the state police?  
 [10] A What had happened at Mirror Lake.  
 [11] Q Okay. Did they take a statement from you? What [12] happened there after you told them what happened?  
 [13] A He did take a statement from me.  
 [14] Q All right. Is that a written statement?  
 [15] A I believe so but I don't remember.  
 [16] Q Okay. Do you remember signing anything there?  
 [17] Your first trip to the state police?  
 [18] A I don't remember.  
 [19] Q Do you remember who you spoke to there?  
 [20] A I know it was a male. I forgot his name. It was [21] Sean. I forgot his name.  
 [22] Q You said Padula then drove you back to the [23] institution?  
 [24] A Yes.  
 [25] Q And that's the main building that you're talking

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[1] of anyone telling you why you had to go the state police to [2] report this?  
 [3] A No. I just remember, you know, to go to the state [4] police. I don't remember the exact words; no.  
 [5] Q Do you remember anyone telling you that you needed [6] to go to the state police because the incident happened off [7] the premises of the BOP?  
 [8] A I don't remember that.  
 [9] Q Okay. So you said that you followed a state [10] trooper to Ayer District Court is that what you said?  
 [11] A Ayer District Court, yes.  
 [12] Q And what happened at the Ayer District Court?  
 [13] A The clerk told us we couldn't take out a [14] restraining order because I did not live in the area.  
 [15] Q Okay. And what happened next?  
 [16] A I don't remember. I know I came back here. But I [17] don't know if I came back inside or just went home. I don't [18] remember.  
 [19] Q Now, after you were denied by Ayer District Court, [20] do you remember speaking to anyone here at the facility?  
 [21] A I don't remember.  
 [22] Q But your memory is that you drove out to Ayer [23] District Court. They said you couldn't get one there. Was [24] Holly with you at that point?  
 [25] A Yes she was.

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[1] about?  
 [2] A Yes.  
 [3] Q What happened when you came back here?  
 [4] A I believe that's when I met with the warden. [5] After the first trip to the state police.  
 [6] Q And where did that meeting take place?  
 [7] A In the warden's office.  
 [8] Q And you said after meeting the warden, you went [9] back to the state police?  
 [10] A Yes.  
 [11] Q How did you get back there the second time?  
 [12] A The warden actually called the mailroom and spoke [13] with Holly Glover. And asked if she could come over to his [14] office and pick me up and take me to the state police.  
 [15] Q Do you have a memory as to what time of day it was [16] when Holly drove with you back to the state police?  
 [17] A I don't remember.  
 [18] Q Okay. And what happened after you went back to [19] the state police the second time?  
 [20] A We met with the trooper who took my statement. [21] And we followed to Ayer District Court to take out a [22] restraining order.  
 [23] Q Okay.  
 [24] A And I was denied.  
 [25] Q Before we get to that point, do you have a memory

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[1] Q She was. So she drove you back here to Devens and [2] you left from here?  
 [3] A Yes.  
 [4] Q Did you leave in your own vehicle or did someone [5] pick you up?  
 [6] A I took my own vehicle.  
 [7] Q And where were you living at that time?  
 [8] A In Malden. On Chester Street.  
 [9] Q Okay. How long a commute is it from here to [10] Malden?  
 [11] A About an hour. Fifty-three miles, something like [12] that.  
 [13] Q Did you go the hospital at all?  
 [14] A No.  
 [15] Q Okay. Did you seek any treatment at all for the [16] bruise you described on your leg?  
 [17] A No.  
 [18] Q Did you ever take any pictures of the bruise?  
 [19] A The state police did.  
 [20] Q They did. And when did that happen?  
 [21] A It was a couple of days later but I don't know how [22] many days. It wasn't that day.  
 [23] Q So it wasn't that day?  
 [24] A No.  
 [25] Q Okay. Can you describe what happened next at

[1] least with regards to this incident?

[2] A Well I drove to my aunt and uncle's house from [3] here, and they had called the Malden Police to find out what [4] we needed to do to get a restraining order.

[5] Q Your aunt and uncle did?

[6] A Yes they did.

[7] Q Okay. What are your aunt and uncle's names?

[8] A Catherine and Eddie Sweeney.

[9] Q Okay. And where do they live?

[10] A They live on Adams – 180 Adams Street, Malden. [11] 28 Adams Street.

[12] Q Okay. So they called the Malden Police you said?

[13] A Yes they did.

[14] Q Okay. And did they relay to you what the Malden Police told them?

[15] A Actually, a police officer came by the house.

[16] Q Okay. And what happened?

[17] A The police officer came by and I had described [19] what happened. And he called the Massachusetts State Police [20] and spoke to the trooper that was involved, that I gave a [21] statement to.

[18] Q So he made that call from your aunt and uncle's home?

[19] A On his cell phone.

[20] Q On his cell phone?

[1] A Oh. He had to stay so many feet away from me but [2] I don't remember the exact---

[3] Q He being?

[4] A —David Reynoso had to stay a certain amount of [5] feet away from me. I don't remember the feet.

[6] Q Okay.

[7] A No contact. I don't remember. That's all I [8] remember.

[9] Q Between the time that you saw Mr. Reynoso at the [10] lake up to this point, had you had any contact with him?

[11] A From?

[12] Q From when he left the lake until this point where [13] you are at your aunt and uncle's home the same day?

[14] A No, no I didn't.

[15] Q Did you attempt to contact him at all in that [16] timeframe?

[17] A Not that I can remember. No.

[18] Q So you didn't try to call him on his cell phone or [19] anything like that?

[20] A No. I didn't know he had a cell phone at the [21] time.

[21] Q Did you try to call him at his mother's phone or [22] anywhere?

[23] A No.

[24] Q Do you know if he tried to contact you in that

[1] A Yes.

[2] Q And how did he get the trooper's name who was at [3] Mirror Lake?

[4] A I told him.

[5] Q Okay.

[6] A I just don't remember it now. But I remembered it [7] then.

[8] Q Do you remember how you remembered the trooper's [9] name from Mirror Lake from the time you saw him that morning [10] to later on that evening with this Malden police officer?

[11] A No I don't. I don't remember how I remembered it.

[12] Q Did the trooper give you his name at Mirror Lake?

[13] A I don't remember.

[14] Q Okay. All right. So this officer makes a call to [15] the state trooper and what happens next?

[15] A That's the thing. I know he called the state [17] trooper but I don't know if they had to call a judge or not [18] to get an emergency restraining order for twenty-four hours. [19] But I believed that's what happened.

[20] Q Okay.

[21] A But I'm not sure. But I was granted a twenty-four [22] hour emergency restraining order.

[23] Q Do you remember what the order was?

[24] A I don't understand the question.

[25] Q What were the restrictions on the order?

[1] timeframe?

[2] A No he didn't.

[3] Q All right. So after, who told you that you [4] received this emergency restraining order?

[5] A The officer who was at my aunt and uncle's house [6] explained to me what an emergency restraining order was.

[7] Q Okay.

[8] A So he told me.

[9] Q Okay. So what happened next after that?

[10] A They called my cousin to talk to me and she [11] brought me over my sister's house and let them know what was [12] going on.

[11] Q What's your cousin's name?

[12] A Linda Sweeney. She's Director of Victim Advocate [15] at Billerica Prison.

[13] Q And so Linda Sweeney drove you to your sister's [14] house?

[15] A Yes. I left my car at my aunt and uncle's.

[16] Q Okay. And what is your sister's name?

[17] A Kerri Glinner.

[18] Q And how do you spell her last name?

[19] A G-L-I-N-N-E-R.

[20] Q Kerri?

[21] A Yes. K-E-R-R-I.

[22] Q And where does Kerri Glinner live?

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[1] A At the time she lived in Everett on Chatham Road.  
 [2] Q Okay. And what happened next?  
 [3] A I just, there was a lot of people there talking to [4] me about what was going on. My family. And when I calmed [5] down a little, I don't know what time it was when I calmed [6] down, I know my cousin drove me back to get my car so I [7] could drive home to my house.  
 [8] Q When you say your cousin, you mean Linda?  
 [9] A Yes. Linda Sweeney.  
 [10] Q You said there were a lot of people at Kerri's [11] house at that time?  
 [12] A Yes.  
 [13] Q Who else was there besides you, Kerri and Linda?  
 [14] A Her husband, David Glinner.  
 [15] Q Okay.  
 [16] A Her daughter, Delaney. Her son, Kyle. Both her [17] mother and father-in-law, Eileen and Mark Glinner. That's [18] all that I can remember.  
 [19] Q How old was Delaney at that time? Do you [20] remember?  
 [21] A Delaney probably about five or six.  
 [22] Q And how old was Kyle at that time?  
 [23] A I don't even think he was a year old yet.  
 [24] Q So after Linda drove you back to your aunt and [25] uncle's house to get your car, what did you do next?

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[1] Q And what court did you go to?  
 [2] A The Malden District Court. I'm not sure if it was [3] that day or the day after.  
 [4] Q Okay. And when you got to Malden District Court, [5] what did you do?  
 [6] A I told the judge what had happened?  
 [7] Q Okay. So there was a hearing?  
 [8] A Yes.  
 [9] Q Did you have anyone representing you at the [10] hearing?  
 [11] A At that time, I had my cousin stand with me while [12] I told the judge what had happened.  
 [13] Q Your cousin?  
 [14] A Linda Sweeney.  
 [15] Q And what did you tell the judge?  
 [16] A Just that he had assaulted me on April 8.  
 [17] Q Was Reynoso there at the hearing?  
 [18] A At that hearing, no.  
 [19] Q Okay. And what did the judge tell you?  
 [20] A She or was it a he? I don't remember if it was a [21] he or she. The judge granted me a ten day restraining [22] order.  
 [23] Q Did you have to fill out any paperwork when you [24] went to the District Court that day?  
 [25] A I don't recall.

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[1] A I drove to my house where my parents live.  
 [2] Q And what are your parents' names?  
 [3] A John and Dotty O'Donnell. Dorothy.  
 [4] Q And what happened next?  
 [5] A My mother was at work. My dad was home and I told [6] him what had happened. And then I, I don't know. I told [7] him what happened and sat with him until it was time for my [8] mother to be picked up from work. My dad usually drives and [9] picks my mother up because he's retired. And I picked my [10] mother up at work and told her what happened.  
 [11] Q Do you remember what time that was?  
 [12] A She worked 3 to 11 so it was about 11.  
 [13] Q Eleven at night?  
 [14] A Yes.  
 [15] Q Okay. And what happened next?  
 [16] A I went home and talked to my parents for a little [17] while and went to bed.  
 [18] Q Okay. Do you remember what happened the next day [19] now? On April 9, 2002? Did you do anything with regards to [20] your employment here at Devens or this incident with Mr. [21] Reynoso?  
 [22] A I think I went to I think I had to go to court [23] that day.  
 [24] Q Okay.  
 [25] A For the ten day restraining order.

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[1] MR. WILMOT: I'm going to show you this document [2] that is marked as Exhibit 26.  
 [3] (DOJ Exhibit No. 26 was marked for [4] identification.)  
 [5] BY MR. WILMOT:  
 [6] Q Do you recognize that document?  
 [7] A Yes I do.  
 [8] Q Can you identify what it is for me please?  
 [9] A It's a protection from abuse, a restraining order [10] against David Reynoso.  
 [11] Q It's a what, I'm sorry?  
 [12] A A restraining order against David Reynoso.  
 [13] Q Let me just take a look at that.  
 [14] Now this appears, there's handwriting on this [15] document, is that your handwriting?  
 [16] A Yes it is.  
 [17] Q And this is your signature at the bottom here?  
 [18] A Yes it is.  
 [19] Q And it's dated, what's the date on there?  
 [20] A April 9, 2002.  
 [21] Q On the top of this it says complaint for [22] protection from abuse, do you see that?  
 [23] A Yes.  
 [24] Q Do you remember filling out a document like this [25] with the information requesting that this order be issued?

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[1] A I don't remember that.  
 [2] Q Okay. And your memory is that the judge in that  
 [3] hearing granted a ten day restraining order?  
 [4] A Yes.  
 [5] Q What happened after that hearing?  
 [6] A I don't remember. That day, you mean?  
 [7] Q Yes.  
 [8] A I know I called work and let them know but I don't  
 [9] know what my actions were.  
 [10] MR. WILMOT: Okay. I'm going to show you this  
 [11] document which is marked as 27.  
 [12] (DOJ Exhibit No. 27 was marked for [13] identification.)  
 [14] BY MR. WILMOT:  
 [15] Q Do you recognize that document?  
 [16] A Yes.  
 [17] Q And what is that?  
 [18] A Abuse Prevention Order.  
 [19] Q And do you see any date on that document?  
 [20] A No I don't.  
 [21] Q Take a look at the second page.  
 [22] A Okay. I recognize it.  
 [23] Q Is there a date on that document?  
 [24] A Yes.  
 [25] Q And what is the date?

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[1] sound about right that your hearing was in the morning  
 [2] around or about 10:20 in the morning?  
 [3] A Yes.  
 [4] Q Okay. Do you see where it says expiration date of  
 [5] order 4/23/02?  
 [6] A Yes.  
 [7] Q Is that your understanding that the restraining [8] order  
 was for that timeframe from the 9th of April to April [9] 23, 2002?  
 [10] A That's my understanding, yes.  
 [11] Q Okay. So it was a little longer than ten days?  
 [12] A Yes.  
 [13] Q Okay. Now did you say you called or you [14] think  
 you may have called the Bureau to let them know that a  
 [15] restraining order was issued?  
 [16] A I think, yes.  
 [17] Q Do you have a memory as to who you spoke with?  
 [18] A No.  
 [19] Q Okay. You just have a memory of letting them know  
 [20] that there was a restraining order?  
 [21] A Yes.  
 [22] Q Did you send the restraining order to the Bureau [23] at  
 that time?  
 [24] A I don't remember.  
 [25] Q Do you remember if that was on the 9th as well,

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[1] A April 9, 2002 and April 23, 2002.  
 [2] Q Okay. So April 9, as you just described, is the [3] day that  
 you had a hearing, correct?  
 [4] A Yes.  
 [5] Q And you said that on that day the judge issued you [6] a  
 ten day restraining order?  
 [7] A Yes.  
 [8] Q The document we are looking at which is marked  
 [9] Exhibit 27, I think. Could this be the restraining order [10] that  
 you were referring to?  
 [11] A Yes.  
 [12] Q Okay. So does that change your testimony then [13] that  
 the document marked as No. 26 is the restraining order?  
 [14] A I thought they were the same thing but I guess [15] not.  
 [16] Q Well looking at Exhibit 26 for a moment. At the [17] top it  
 says, I don't know if it's cut out or what it is, it [18] says page 2.  
 [19] Do you believe that there was another document [20] that  
 accompanied this document marked as Exhibit 26?  
 [21] A I don't know.  
 [22] Q Okay. If you could turn to the second page of 27. [23] If  
 you look at where it says date of order 4/9/02.  
 [24] A Okay.  
 [25] Q And it says time of order 10:20 a.m. Does that

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[1] the same that you, that the order was issued?  
 [2] A I believe, no, I definitely spoke to somebody on [3] the 9th,  
 but I don't know if I sent out the restraining [4] order on the 9th.  
 [5] Q Okay.  
 [6] A The ten day restraining order.  
 [7] Q Do you have a memory of speaking with Steve Gagnon  
 [8] at some point?  
 [9] A No. Fernando Messer.  
 [10] Q Your remember speaking with Fernando Messer?  
 [11] A Yes.  
 [12] Q Do you remember when you first spoke with him?  
 [13] A April 9th, the day after.  
 [14] Q The day after. Can you describe your conversation  
 [15] with Fernando Messer?  
 [16] A I think he said that the warden approved admin [17] leave  
 for me, a few more days or something, but I don't [18] remember  
 the exact, it wasn't a long conversation.  
 [19] Q Okay. And did you speak with anyone else, other  
 [20] than Fernando?  
 [21] A I don't remember.  
 [22] MR. WILMOT: Okay. I'm going to show you what is  
 [23] marked as Exhibit 28.  
 [24] (DOJ Exhibit No. 28 was marked for [25] identification.)

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[1] BY MR. WILMOT:  
 [2] Q Do you recognize that document?  
 [3] A Yes I do.  
 [4] Q Can you identify what it is?  
 [5] A It is a referral to an Employees Assistance [6] Program from my supervisor Steve Gagnon.  
 [7] Q And what's the date of this document?  
 [8] A April 10, 2002.  
 [9] Q Do you remember when you received this?  
 [10] A I don't.  
 [11] Q Do you remember how you received it?  
 [12] A I don't.  
 [13] Q Do you remember if it was given to you in person [14] or by mail?  
 [15] A I don't remember.  
 [16] Q Do you remember having any discussions at all with [17] Steve, is it Gannon or Gagnon?  
 [18] A Gagnon.  
 [19] Q Gagnon. Do you remember having a conversation [20] with him about the Employees Assistance Program?  
 [21] A No.  
 [22] Q No. At any point?  
 [23] A I remember the letter I got, but I just don't know [24] how I received it or when I received it.  
 [25] Q Do you remember talking about the Employees

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[1] AFTERNOON SESSION  
 [2] (1:20 p.m.)  
 [3] BY MR. WILMOT:  
 [4] Q You testified earlier that you were on admin leave [5] following the incident April 8, 2002?  
 [6] A Yes.  
 [7] Q How long were you on admin leave for?  
 [8] A I think it was from when I left on Monday and [9] Tuesday, Wednesday, Thursday and Friday.  
 [10] Q So the remainder of that week?  
 [11] A Yes.  
 [12] Q Okay. And when did you return back to work?  
 [13] A That following Monday.  
 [14] Q Before returning to work the following Monday, did [15] you speak with your supervisor or anyone else within BOP [16] concerning your return?  
 [17] A I believe so, yes.  
 [18] Q Do you remember who?  
 [19] A Fernando Messer is the only one I remember talking [20] to that week.  
 [21] Q And what did you talk about with Fernando?  
 [22] A At first, I was granted two days admin leave.  
 [23] Q Okay.  
 [24] A And then when I spoke with him, he told me I was [25] approved for the rest of the week. I remember him telling

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[1] Assistance Program with Steve Gagnon?  
 [2] A No.  
 [3] Q Okay. Not at any point?  
 [4] A I don't remember.  
 [5] Q Okay.  
 [6] THE WITNESS: Could I take a break to use the [7] lady's room?  
 [8] MR. WILMOT: Absolutely.  
 [9] MS. MCDONALD: Actually are we going to break for [10] lunch?  
 [11] Mr. WILMOT: What time is it?  
 [12] MS. MCDONALD: It's 12:30.  
 [13] (Whereupon, at 12:30 p.m., a luncheon recess was [14] held.)

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[1] me that.  
 [2] Q Did you ask for that leave?  
 [3] A No.  
 [4] Q So you were told by Fernando that you would be put [5] on leave for the rest of the week?  
 [6] A Yes.  
 [7] Q When were you told that?  
 [8] A I don't remember. It was during that week. I [9] just don't remember which day.  
 [10] Q You said you were initially put on two days [11] administrative leave, correct?  
 [12] A Correct.  
 [13] Q So that would take you to Wednesday, correct?  
 [14] A No I think Tuesday. The remainder of Monday was [15] admin leave.  
 [16] Q Okay.  
 [17] A And then that Tuesday.  
 [18] Q All right. So not two in addition to that Monday [19] but to Monday until Tuesday?  
 [20] A I believe so, yes.  
 [21] Q Okay. So you were planning to come back to work [22] on Wednesday?  
 [23] A Yes I was.  
 [24] Q And you were ready to return to work on Wednesday?  
 [25] A No I wasn't.

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[1] Q And why weren't you?  
 [2] A I was a mess.  
 [3] Q Okay.  
 [4] A I was in a fog.  
 [5] Q Did you express that to Fernando?  
 [6] A Yes I did. Because I was crying on the phone to [7] him, so yes.  
 [8] Q Do you remember when that conversation was?  
 [9] A I don't. I want to say it was that Tuesday, the [10] day that I got the ten day restraining order. I know I [11] spoke to him that day but I'm not positive that was.  
 [12] Q So if you were to return to work on Wednesday, do [13] you have a memory of calling Fernando the day of that you [14] were going to come to work and telling him that you were a [15] mess, or do you think you had that conversation before [16] Wednesday?  
 [17] A Had that conversation before Wednesday.  
 [18] Q Okay. So that conversation with him was either [19] Monday or Tuesday?  
 [20] A Yes.  
 [21] Q Okay. And during that conversation was when he [22] told you that he put you on admin leave for the rest of the [23] week?  
 [24] A Yes.  
 [25] Q Did you object to that?

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[1] A I don't remember the whole - I just remember him [2] telling me I had to be in work Monday from 6:00 to 2:30.  
 [3] Q Okay.  
 [4] A In the mailroom.  
 [5] Q And what were your hours before he told you that?  
 [6] A 6:30 to 3:00 that month.  
 [7] Q Okay. Now you say that month, did your schedule [8] change—  
 [9] A Mondays our schedule changes.  
 [10] Q —from time to time?  
 [11] Okay. Remember to wait for me to finish my [12] question before you begin to answer.  
 [13] A Okay.  
 [14] Q So you're saying that monthly your schedule would [15] change?  
 [16] A Yes.  
 [17] Q And how did it change month to month?  
 [18] A It would, the hours are 6:30 to 3:00. 7:30 to [19] 4:00 and I'm not sure there's a 9:30 to 6:00, but I'm not [20] sure when that started. You know, if it was during that [21] time or it started a year later. But I know there's a 9:30 [22] to 6:00.  
 [23] Q And you said 7:30 to 4:00, is that 7:30 p.m. to [24] 4:00 p.m.?  
 [25] A 7:30 a.m. to 4:30 p.m.

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[1] A No.  
 [2] Q Were you pleased with being on leave for the rest [3] of the week?  
 [4] A Yes.  
 [5] Q And other than that conversation with Fernando, [6] did you have any other contact with any of your supervisors [7] or HR here at BOP?  
 [8] A I don't remember.  
 [9] Q Okay. So you were planning to return the [10] following Monday?  
 [11] A Yes.  
 [12] Q Which would have been April 15th?  
 [13] A 16th is it? April 15th, yes.  
 [14] Q 15th. Okay. Prior to your returning on the 15th, [15] did you speak with anyone that led them to inquire as to [16] what the BOP was doing?  
 [17] A Yes.  
 [18] Q You did. And who did you speak to?  
 [19] A Fernando Messer.  
 [20] Q Okay. So you had a conversation with him either [21] Monday or Tuesday and then you had another conversation with [22] him or just the same conversation?  
 [23] A I had another conversation with him on that [24] Friday.  
 [25] Q Okay. And do you remember what you said to him?

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[1] Q Okay. And the 9:30 to 6:00. That's 9:30 a.m. to [2] 6:00 p.m.?  
 [3] A Yes.  
 [4] Q Okay. In Systems Management, is that right? I'm [5] sorry, what's your department name?  
 [6] A Inmate Systems Management.  
 [7] Q Okay. In your department, you never had to work [8] overnight or anything like that?  
 [9] A No.  
 [10] Q So these three shifts that you described, are the [11] three shifts that you would have to work in your department?  
 [12] A Yes.  
 [13] Q Okay. And from month to month, you would shift [14] between these three different shifts that you just [15] described?  
 [16] A Yes.  
 [17] Q Okay. All right. So you were told by Fernando [18] that your hours would be 6:00 to 2:30?  
 [19] A Yes.  
 [20] Q Did he tell you anything else?  
 [21] A Not that I can recall.  
 [22] Q Did he tell you why he was doing that?  
 [23] A Not that I can recall.  
 [24] Q Did he tell you or did you ask him about Reynoso?  
 [25] A Not that I remember.

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[1] Q Do you remember if he told you that he was [2] changing Officer Reynoso's schedule as well?  
 [3] A I don't remember.  
 [4] Q Okay. And you said you don't remember if you [5] asked?  
 [6] A No, I don't remember.  
 [7] Q Do you remember if you asked him why your schedule [8] was being changed?  
 [9] A I don't remember.  
 [10] Q Did he object to your schedule being changed to [11] 6:00 a.m. to 2:30 p.m.?  
 [12] A In reference to Fernando Messer?  
 [13] Q Yes.  
 [14] A I don't remember. I don't think so but I don't [15] remember.  
 [16] Q Okay. So what happened next after your [17] conversation with Fernando? Your next contact with someone [18] here at the BOP?  
 [19] A I was at work that following Monday.  
 [20] Q Okay. And where did you report into that [21] following Monday?  
 [21] A I honestly don't remember. I don't know if I came [23] in and got the mail and brought it out to the outside [24] mailroom--  
 [25] Q When you say came in, is that the main building?

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[1] go through Control to get to those areas that you just [2] described in the building?  
 [3] A Yes.  
 [4] Q You did. Okay. So that morning, you remember [5] coming into the main building and picking up the inmate and [6] staff outgoing mail?  
 [7] A I don't remember if I did that. That would be my [8] duties, but I don't remember.  
 [9] Q Okay. And do you remember speaking with anyone [10] when you came in that morning? Any supervisors or anyone [11] from HR?  
 [12] A No.  
 [13] Q Did you speak with your supervisor? No?  
 [14] A No. They're not in that early.  
 [15] Q At some point during that day, did you speak to [16] one of your supervisors?  
 [17] A I don't remember.  
 [18] MR. WILMOT: Okay. I am going to show you this [19] document here, which is marked as Exhibit 29.  
 [20] (DOJ Exhibit No 29 was marked for [21] identification.)  
 [22] BY MR. WILMOT:  
 [23] Q Do you recognize that document?  
 [24] A Yes.  
 [25] Q Can you identify it for me please?

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[1] A It's the main building, yes. But I don't remember [2] if that's what it was.  
 [3] Q Okay. Would that be - how would you typically [4] start your day?  
 [5] A I would come into the main institution. I would [6] collect inmate outgoing mail and stack outgoing mail and [7] gather it all up and meet our inmate orderly outside the [8] main institution, and then he would drive me to the [9] mailroom. The outside mailroom.  
 [10] Q And that's how you would start each day typically?  
 [11] A Yes. When I was the early person.  
 [12] Q Okay. And when you say you were the early person, [13] you mean someone who was working in this 6:30 a.m. shift?  
 [14] A Yes.  
 [15] Q Okay. And from where would you gather the inmate [16] and staff outgoing mail?  
 [17] A The inmate legal mail, outgoing legal mail, is [18] located all of the way down the other end of the compound, [19] near food service--  
 [20] Q Okay.  
 [21] A --which is about a quarter mile down. And the [22] regular inmate mail is located in the main building. And [23] the staff mail is located in the inside mailroom. And I [24] would gather that all up and go outside.  
 [25] Q When you're in the main building, do you have to

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[1] A It's a letter from the warden to me saying what my [2] hours are that I'm assigned to as of April 15th. If I have [3] any questions, to contact Human Resources Manager, Cindy [4] Lord.  
 [5] Q Okay. At the bottom of that document is a [6] signature. Can you read that signature?  
 [7] A Colleen O'Donnell.  
 [8] Q Is that your signature?  
 [9] A Yes.  
 [10] Q Is it dated?  
 [11] A Yes.  
 [12] Q What's the date?  
 [13] A April 15, 2002.  
 [14] Q Do you have a memory signing that document?  
 [15] A Yes.  
 [16] Q Do you remember who presented the document to you?  
 [17] A Yes.  
 [18] Q Who gave you that document to sign?  
 [19] A Lois Swiderski.  
 [20] Q Lois Riderski?  
 [21] A Swiderski, yes.  
 [22] Q Swiderski. Can you spell her last name?  
 [23] A I believe it's S-W-I-R-D-E-S-K-I.  
 [24] Q And who is Lois Swiderski?  
 [25] A She was the Assistant Human Resources Manager.

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[1] Q Okay. And how did you know to meet with Ms.  
 [2] Swiderski that day?  
 [3] A She came over to the mailroom.  
 [4] Q Okay. Do you know what time?  
 [5] A No.  
 [6] Q And when she came into the mailroom, where did you  
 [7] discuss that letter?  
 [8] A There's a little lunch area that you can shut the [9] door  
 and there's nobody in that area if you shut the door.  
 [10] Q Okay. Was anyone else in that meeting with you [11] and  
 Lois?  
 [12] A No.  
 [13] Q Okay. And what did Lois tell you?  
 [14] A She just actually handed me the letter and told me [15] to  
 read it and sign it.  
 [16] Q Okay. Did you ask her any questions?  
 [17] A Yes.  
 [18] Q What did you ask her?  
 [19] A I told her first that I didn't want to sign it [20] because I  
 didn't think that was appropriate.  
 [21] Q And why was that?  
 [22] A Because I didn't do anything wrong so I shouldn't  
 [23] have to, I shouldn't have to sign it.  
 [24] Q You told her that you didn't do anything wrong and  
 [25] you shouldn't have to sign it?

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[1] Q Now you said Fernando Messer told you that on  
 [2] Friday, right? That your hours were being changed to these  
 [3] hours?  
 [4] A Yes.  
 [5] Q So why were you startled come Monday?  
 [6] A Seeing it in writing from Human Resources I felt [7] as  
 though it was a discipline instead of Fernando just [8] telling me  
 hey, you're coming in 6:00 on Monday, 6:00 to [9] 2:30.  
 [10] Q Okay. Did the words discipline or anything like [11] that  
 appear in that letter?  
 [12] A Yes.  
 [13] Q Can you point that out to me?  
 [14] A My schedule being changed. I feel as though it's  
 [15] discipline.  
 [16] Q Okay. Other than that, anything in that letter [17] that  
 indicates that you're being disciplined?  
 [18] A Yes.  
 [19] Q And what's that?  
 [20] A The overtime.  
 [21] Q Can you elaborate on that? What do you mean?  
 [22] A In the letter it says if you plan to work outside [23] of  
 these hours for any reason, in parentheses overtime, you [24] must  
 notify your supervisor prior to working and that's [25] nobody else  
 in the institution has to do that, so I don't

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[1] A Yes.  
 [2] Q What did you believe this letter to be?  
 [3] A Changing my hours.  
 [4] Q Did you believe it was a form of discipline?  
 [5] A Yes.  
 [6] Q And why did you believe that?  
 [7] A Because they changed my hours.  
 [8] Q So because they changed your hours from 6:30 a.m.  
 [9] starting time, to 6:00 a.m. starting time, you thought that  
 [10] was a form of discipline?  
 [11] A Yes.  
 [12] Q Okay. Anything else that you're basing that  
 [13] conclusion on other than the fact that your hours changed?  
 [14] A That day, no. It was just because my hours  
 [15] changing.  
 [16] Q Okay. So because your hours changed, you felt [17] that  
 you were being disciplined?  
 [18] A Yes.  
 [19] Q And what was her response to that statement?  
 [20] A I remember saying I don't want to sign and she [21] said  
 why not? And I explained and she said oh no, it's not [22] that, just  
 sign it or something, I don't remember the whole [23] conversation.  
 [24] Q Okay.  
 [25] A I just remember being a little startled by it.

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[1] understand why I had to do that.  
 [2] Q Okay. Before the date of this letter or before [3] April 15,  
 2002, had you informed the Bureau that you had [4] obtained a  
 restraining order against David Reynoso?  
 [5] A Yes.  
 [6] Q And what were Officer Reynoso's hours or duty [7] hours  
 before your restraining order against him?  
 [8] A I believe 8:00 a.m. to 4:00 p.m.  
 [9] Q Okay. And he worked in the main building, [10] correct?  
 [11] A Yes.  
 [12] Q And did Lois explain at all why they were changing  
 [13] your hours or not allowing as you're saying to do overtime?  
 [14] A I don't recall.  
 [15] Q Do you remember if she mentioned Officer Reynoso  
 [16] at all in that conversation?  
 [17] A I don't remember.  
 [18] Q If you look at the third paragraph of this letter, [19] It says  
 there you are not to contact the plaintiff (in [20] person or  
 telephonically) or associate with David Reynoso, [21] Intelligence  
 Officer at any time. Do you see that?  
 [22] A Yes.  
 [23] Q Did you feel that was a form of discipline?  
 [24] A I don't remember at that time if I did.  
 [25] Q Okay. Looking at it now, do you feel that was a

[1] form of discipline?  
 [2] A Yes.  
 [3] Q To restrict you from contacting Officer Reynoso?  
 [4] A Yes.  
 [5] Q And why do you believe that?  
 [6] A Because I didn't do anything wrong and so I [7] shouldn't have any type of restriction on me whatsoever.  
 [8] Q Okay. But you did have a restraining order [9] against him, right?  
 [10] A Yes.  
 [11] Q So it's your belief that if he was restricted from [12] contacting you, you shouldn't be restricted from contacting [13] him?  
 [14] A Yes.  
 [15] Q Okay. And did Lois say anything else in that [16] meeting?  
 [17] A I don't remember.  
 [18] Q So you did ultimately sign the letter, correct?  
 [19] A Correct, yes.  
 [20] Q And did you do so in that meeting with Lois?  
 [21] A Yes.  
 [22] Q And why did you decide to finally sign the letter [23] but at first you didn't want to?  
 [24] A I don't - I was in a fog. I don't know why I [25] signed it afterwards. I just signed it.

[1] Q Okay.  
 [2] A 4 p.m. to midnight.  
 [3] Q And what is your understanding as to why his [4] schedule was changed?  
 [5] A Why his schedule was changed?  
 [6] Q Any understanding as to why the Bureau changed [7] Officer Reynoso's schedule from 4 p.m. to midnight?  
 [8] A Because of the restraining order.  
 [9] Q Okay. Let me bring your attention to your [10] Complaint again. Paragraph 11.  
 [11] There you say, "when plaintiff returned to work, [12] she learned that her hours and duties had been changed and [13] she was reassigned to the mailroom." Do you see that?  
 [14] A Yes.  
 [15] Q You, in fact, learned that your hours and duties, [16] your hours were changed on Friday from Fernando Messer,  
 [17] correct?  
 [18] A Correct, yes.  
 [19] Q So this sentence here is inaccurate, isn't that  
 [20] correct?  
 [21] A Yes.  
 [22] Q You also say here that your duties were changed.  
 [23] Do you see that?  
 [24] A Yes.  
 [25] Q What duties did you have prior to April 15th that

[1] Q Okay. And you gave it back to Lois at that time?  
 [2] A I believe so. She was right in front of me when I [3] signed it so.  
 [4] Q Okay. And do you remember if she said to you this [5] isn't a form of discipline?  
 [6] A I don't remember. No.  
 [7] Q Okay. I think you said earlier that when you [8] first rejected to signing it, you said that because you [9] thought or you said that you didn't do anything wrong.  
 [10] I believe you said that her response was no, it's [11] nothing like that. What did you mean by that?  
 [12] A That she was saying that it's not - this isn't a [13] discipline for me.  
 [14] Q Okay. And were you aware at that time that [15] Officer Reynoso's schedule was changed?  
 [16] A I don't remember.  
 [17] Q Did you become aware of that at some point?  
 [18] A Yes.  
 [19] Q When did you become aware of that?  
 [20] A I don't remember.  
 [21] Q Was it before you filed this lawsuit?  
 [22] A Yes.  
 [23] Q And what is your understanding as to what happened [24] to Officer Reynoso's schedule?  
 [25] A That he had to work 4:00 to midnight.

[1] you longer had on the 15th or did not have before the 15th  
 [2] and now had?  
 [3] A I was allowed to go anywhere in the institution. [4] I was allowed to work overtime with my department when we [5] had buses come in and I no longer could do that.  
 [6] Q Okay, but this says duties. Would those be [7] duties?  
 [8] A Yes.  
 [9] Q When we looked earlier at your position statement.  
 [10] Do you remember that?  
 [11] A Yes.  
 [12] MR. WILMOT: Want to pull that out for me please?  
 [13] MS. MCDONALD: Do you mean her job description?  
 [14] MR. WILMOT: Yes. Her job description.  
 [15] MS. MCDONALD: Is it over there?  
 [16] MR. WILMOT: I think you just have to go a little [17] bit further.  
 [18] MS. MCDONALD: Towards the back.  
 [19] THE WITNESS: Oh, yes.  
 [20] MR. WILMOT: Okay.  
 [21] BY MR. WILMOT:  
 [22] Q When you reviewed Exhibit No. 24, you told me that [23] encompassed your duties and responsibilities as an ISO. Do [24] you remember that testimony?  
 [25] A Yes I remember it.

BSA

Depo-O'Donnell V Gonzales, 04-40190-FDS - Depo of Colleen O'Donnell - 08/24/05 XMAX(29/29)

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[1] Q In that document, does that describe that working overtime as one of your duties and responsibilities as an ISO?  
 [2] [3] ISO?  
 [4] (Witness reviews document.)  
 [5] A No.  
 [6] Q It does not?  
 [7] A No. Oh, I'm sorry. I didn't realize the last [8] page.  
 [9] Q Okay.  
 [10] A No.  
 [11] Q And did you see anywhere in that document it stating that one of your duties and responsibilities as an ISO is to go anywhere on the compound as you just described?  
 [14] A Yes.  
 [15] Q And where is that?  
 [16] A Responding to emergencies.  
 [17] Q And what page is that?  
 [18] A The second page.  
 [19] Q Okay. And where on the second page are you looking?  
 [21] A The last paragraph.  
 [22] Q Okay. Can you read that section that you're [23] talking about?  
 [24] A Yes.  
 [25] Q Or a portion of this document that you're talking

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[1] Q Okay.  
 [2] A I was the only person. So I was ordered on fog [3] watch.  
 [4] Q Okay. Other than the fog watch, is there anything [5] else in this sentence that you were precluded from doing [6] after April 15, 2002?  
 [7] A Not that I'm aware of, no.  
 [8] Q Okay. So is it fair to say that your duties you [9] described to me that the duties you felt were changed were [10] one, the ability to go to different places in the compound. [11] And I believe the second one was working overtime.  
 [12] Is it fair to say first that overtime is not a [13] duty or responsibility of an ISO?  
 [14] A No it is not fair to say.  
 [15] Q Didn't you just read this document and told me it [16] is no where listed in here as a duty and responsibility?  
 [17] A Yes. It's not written in here but it's required.  
 [18] Q Working overtime is required of an ISO?  
 [19] A Yes.  
 [20] Q Okay.  
 [21] A When special buses come in.  
 [22] Q Okay. All right. Are you familiar with the [23] disciplinary procedures within the agency?  
 [24] A I'm familiar with them, yes.  
 [25] Q What are typically the steps before you are given

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[1] about?  
 [2] A "Specific correctional responsibilities include [3] custody and supervision of inmates, responding to [4] emergencies and institution disturbances, participating in [5] fog and escape patrols and assuming correctional officer [6] post when necessary."  
 [7] Q Okay. So it's your testimony that this sentence [8] is saying that one of your duties and responsibilities is to [9] go at various locations on the compound?  
 [10] A Yes.  
 [11] Q Okay. From when your hours changed on the 15th, [12] have any of these scenarios as described in that sentence [13] occurred?  
 [14] A Yes.  
 [15] Q So there have been emergencies or disturbances at [16] the institution where someone from your department was [17] needed and you were not able to respond?  
 [18] A Fog watch. No emergency. But fog watch.  
 [19] Q So there was a fog watch. What's a fog watch?  
 [20] A The institution gets really foggy and the inmates [21] are not allowed outside their, out of their cells or [22] whatever unless there are people surrounding the perimeter [23] of the prison to watch them go back and forth.  
 [24] Q And so you were unable to participate in that?  
 [25] A Actually I did. I did participate in that.

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[1] discipline?  
 [2] A I believe there is a warning. You sit down with [3] your supervisor and you talk, is a warning. There is a [4] written warning after that. And I don't know if there is an [5] investigation after that, or exactly what that is.  
 [6] Q And then what, after the investigation, what [7] happens, if there is one?  
 [8] A The investigator would report his findings to the [9] warden. And the warden would make a decision on what [10] disciplinary, you know, what discipline should be given.  
 [11] Q Are there circumstances where those steps would [12] be, the initial steps would be skipped and the warden could [13] go right to disciplining an employee?  
 [14] A I don't know.  
 [15] Q Did any of those steps you described occur prior [16] to your receiving a letter you signed on April 15, 2002?  
 [17] A (No verbal response.)  
 [18] Q Were you received a warning, an investigation, [19] etc., as you described?  
 [20] A Before?  
 [21] Q Before you received the letter that you signed on [22] April 15, 2002. The letter that you had stated was a form [23] of discipline. Did any of the steps that you just described [24] happen before you received that letter on April 15, 2002?  
 [25] A No.

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[1] Q Okay. Turning back to your Complaint. Paragraph [2] No. 11. That second sentence says Reynoso's duties and [3] assignment remain the same. Do you see that?  
 [4] A Yes.  
 [5] Q Is that a true statement?  
 [6] A Yes.  
 [7] Q So his assignment did not change?  
 [8] A No.  
 [9] Q And his duties did not change?  
 [10] A Not that I know of.  
 [11] Q Okay. His hours did change though, correct?  
 [12] A Yes.  
 [13] Q Okay. Your next sentence in 12 says "in addition [14] to changes in hours and assignment, plaintiff was otherwise [15] objected to unequal terms and conditions of employment based [16] upon her gender." Do you see that?  
 [17] A Yes I do.  
 [18] Q How did your assignment change?  
 [19] A I wasn't allowed to stay for buses that came in [20] with the rest of my coworkers.  
 [21] Q So your assignment - well, explain to me what an [22] assignment it is, maybe I'm not following you?  
 [23] A It's basically our job, what we have to do. You [24] know, like you're in the mailroom; you're working 6:00 to [25] 3:30 or whatever, 6:00 to 2:30. You have a bus coming in so

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[1] A Like every couple of years you get a step [2] increase.  
 [3] Q All right. So your grade has increased. Has [4] there been a decrease in your grade?  
 [5] A No.  
 [6] Q When you returned on April 15, did your salary or [7] your pay change?  
 [8] A No.  
 [9] Q Has there been any decrease in your pay?  
 [10] A No.  
 [11] Q Has there been any decrease in your benefits?  
 [12] A No.  
 [13] Q Okay. Did you know that Officer Reynoso's [14] overtime was restricted as well?  
 [15] A No I did not. I don't remember. I can't say for [16] sure.  
 [17] Q All right. So when you returned on the 15th and [18] you were working this new schedule, did you have any [19] conversations or any discussions at all about Officer [20] Reynoso or your new schedule with any supervisors or [21] anyone [22] from HR?  
 [22] A I remember Lois Swiderski coming out to the [23] mailroom to discuss my new hours and give me the letter. I [24] don't remember who I spoke to or if I did or I didn't speak [25] to anyone.

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[1] you do your job in the mailroom and you're assigned to go [2] into receiving and discharge in the main building to help [3] process inmates in.  
 [4] And so, I had to leave by 3:00 so I wasn't allowed [5] to process inmates in with the rest of my coworkers.  
 [6] Q Okay. Any other part of your assignment that was [7] changed?  
 [8] A Yes.  
 [9] Q And what is that?  
 [10] A I was told in January 2003 that I would be going [11] back - I would be coming into R&D in the main building by [12] the warden and then I was told a couple of days later that I [13] had to stay out in the mailroom.  
 [14] Q Okay.  
 [15] A So it was changed. My rotation was supposed to be [16] R&D in January 2003 and they wouldn't let me come back in.  
 [17] Q Okay. Now your position at the time was still [18] ISO, correct?  
 [19] A Correct.  
 [20] Q All right. And that has not changed at least, [21] correct?  
 [22] A Correct.  
 [23] Q Has your grade changed at all?  
 [24] A Yes. I think I went from a 7-5 to a 7-6.  
 [25] Q Okay.

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[1] Q Okay. Did you have any interaction with Reynoso [2] after April 15, 2002?  
 [3] A At work?  
 [4] Q At work or anywhere else?  
 [5] A Yes.  
 [6] Q Can you describe that?  
 [7] A There was telephone conversations between the two [8] of us.  
 [9] Q When was the first one?  
 [10] A The week that I was out on admin leave. After the [11] incident happened.  
 [12] Q The week?  
 [13] A April 8.  
 [14] Q Okay. When was that telephone conversation?  
 [15] A It was either that Tuesday or Wednesday. I don't [16] remember.  
 [17] Q Okay. And do you remember if he called you or did [18] you call him?  
 [19] A A woman called me and he was with this woman.  
 [20] Q Okay. And he was on the phone?  
 [21] A Yes.  
 [22] Q And what did he say?  
 [23] A Don't listen to a word she's saying. Something [24] like that. Because the woman was telling me that she had [25] been dating Reynoso for awhile. He said don't listen to a

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[1] word she's saying.  
 [2] Q She being who?  
 [3] A The woman who called me, Danielle Weaver.  
 [4] Q So Reynoso was saying to you don't listen to a [5] word. Danielle Weaver was saying?  
 [6] A Yes.  
 [7] Q And what was Danielle Weaver telling you?  
 [8] A That they were together since a long time; I don't remember the exact dates. But she was seeing him the whole time he was seeing me.  
 [11] Q And he was telling you to disbelieve the woman?  
 [12] A Yes.  
 [13] Q And they're both on the phone together at that [14] time you said?  
 [15] A He, I think he took the phone from her, they [16] weren't, they were on the same line.  
 [17] Q Okay. And what was your response to that phone [18] call?  
 [19] A I just cried a lot.  
 [20] Q Did you speak again that week?  
 [21] A That week, no.  
 [22] Q Okay. When was the next time you spoke to Officer [23] Reynoso?  
 [24] A Probably, I don't know the exact date, it was a [25] week or two later. I was already back at work.

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[1] Q What do you remember about that conversation?  
 [2] A I really don't - I don't know if I blocked, I [3] really don't remember a lot of the conversations.  
 [4] Q Okay. Was that over the telephone?  
 [5] A Yes. It was a lot of, like I said, crying.  
 [6] Q Did you run into Reynoso at work?  
 [7] A Yes.  
 [8] Q Have a conversation with him at work?  
 [9] A No I ran into him at work.  
 [10] Q You did?  
 [11] A Yes.  
 [12] Q And when was that?  
 [13] A I was working overtime and I was leaving the [14] institution and he was coming in.  
 [15] Q Where were you working the overtime?  
 [16] A It was a Custody post. It was a midnight to 8:00 [17] overtime. 8 a.m. It was something in Custody; I just don't [18] recall where it was.  
 [19] Q Do you know when this was?  
 [20] A No.  
 [21] Q Was it in 2002?  
 [22] A Yes, I believe so.  
 [23] Q Okay. And this was, what day of the week was [24] this?  
 [25] A It was a weekend. So Saturday or Sunday. I don't

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[1] Q Okay. And do you remember what you spoke about [2] then?  
 [3] A Just he misses me and he's sorry that she called.  
 [4] That's all I really remember.  
 [5] Q And did he call you?  
 [6] A Yes, from a pay phone.  
 [7] Q How do you know it's a pay phone?  
 [8] A Because I have caller I.D. and it was like this [9] strange number, so I picked it up.  
 [10] Q He called you at home?  
 [11] A Yes.  
 [12] Q And what did you say to him?  
 [13] A I really don't remember. It was a lot of crying.  
 [14] Q Was he trying to reconcile your relationship?  
 [15] A I don't know.  
 [16] Q After the 15th, did you ever talk to him about [17] reconciling your relationship?  
 [18] A I don't remember. We talked about our [19] relationship but I don't know if we talked about [20] reconciling.  
 [21] Q Okay. After this phone call from the pay phone, [22] do you remember the next time you spoke with Reynoso?  
 [23] A A couple of months had gone by. So I don't - I [24] want to say August, September but I'm not 100 percent sure. [25] I don't know.

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[1] know which day though.  
 [2] Q Okay. Do you remember generally what month it was [3] in 2002?  
 [4] A No.  
 [5] Q So you ran into him. You said you were leaving [6] and he was coming in. Where did this occur?  
 [7] A In the staff parking lot.  
 [8] Q Okay. So he was coming into the parking lot?  
 [9] A No he was physically walking into the prison and I [10] was physically walking out going to my car.  
 [11] Q Okay. And what happened when you saw him and he [12] saw you?  
 [13] A Nothing. He just shook his head.  
 [14] Q Did he continue, did he proceed to come inside the [15] institution?  
 [16] A Yes, that I saw. Yes.  
 [17] Q And you walked out?  
 [18] A I got in my car.  
 [19] Q So did you physically pass each other?  
 [20] A Yes.  
 [21] Q Okay. Did you exchange any words or anything?  
 [22] A No.  
 [23] Q After April 15, 2002, did Reynoso ever threaten [24] you in any way?  
 [25] A No.

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[1] Q Other than this incident in 2002, did you ever [2] come into contact, physical contact, with him on the [3] compound?  
 [4] A After that incident, the compound? Not that I can [5] remember.  
 [6] Q Okay.  
 [7] A I mean, I don't remember. Can I run to the ladies [8] room again?  
 [9] MR. WILMOT: Sure.  
 [10] (Off the record from 2:04 to 2:07 p.m.)  
 [11] BY MR. WILMOT:  
 [12] Q You mentioned that after April 15, 2002, that [13] Reynoso didn't threaten you again. Did he threaten you [14] prior to that day?  
 [15] A Yes.  
 [16] Q Can you describe those threats to me?  
 [17] A He'd just basically tell me that if I went to the [18] police he would kill me. Kill my family.  
 [19] Q He said he would kill you for going to the police [20] about what?  
 [21] A He used to hit me a lot and he would tell me that [22] he would kill me.  
 [23] Q Now prior to April 15, 2002, when was the last [24] time that he made that type of statement to you?  
 [25] A I don't remember.

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[1] Q Okay. Was it soon before your return back to [2] work?  
 [3] A No.  
 [4] Q Was it sometime before that?  
 [5] A Yes.  
 [6] Q How much time?  
 [7] A I don't remember but I know it was maybe a month.  
 [8] Q A month before you returned back to work?  
 [9] A Yeah. Before April 15th, maybe, anywhere within [10] that month.  
 [11] Q And what were the circumstances of that discussion [12] when he threatened you?  
 [13] A I had gone out with some friends of mine and he [14] got mad and he left that message on my machine. And then I [15] saw him the next day, and it got a little physical. And I [16] threatened to go to the cops again and he said he would kill [17] me.  
 [18] Q And so your memory is that occurred the day after [19] the message that you identified earlier?  
 [20] A Yes.  
 [21] Q What is the date on that message?  
 [22] A March 23, 2002.  
 [23] Q Okay. So your memory is March 24, 2002 the last [24] time he threatened you or threatened to kill you?  
 [25] A Yes, that I can recall. Yes.

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[1] MR. WILMOT: Okay. I am going to show you what [2] has been marked as Exhibit 30.  
 [3] (DOJ Exhibit No. 30 was marked for [4] identification.)  
 [5] BY MR. WILMOT:  
 [6] Q Do you recognize that document?  
 [7] A Yes.  
 [8] Q And what is it?  
 [9] A It is a memorandum from me to the warden and I [10] carbon copied Steve Gagnon; Robert Lora, EEO counselor, and [11] Mark Shaughnessy who is a chief steward for the union.  
 [12] Q Okay. Here it says that you were informed April [13] 8, 2002 David Reynoso was arrested by the Nashua State [14] Police following a violent attack. Do you remember [15] informing the warden that Reynoso was arrested?  
 [16] A No.  
 [17] Q Do you know whether or not the warden knew Reynoso [18] was arrested by the state police before the date of this [19] memorandum?  
 [20] A I don't remember.  
 [21] Q Okay. And what's the date on this memo?  
 [22] A May 13, 2002.  
 [23] Q All right. You also say in this sentence that the [24] attack occurred during your duty free lunch period. Do you [25] see that?

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[1] A Yes I do.  
 [2] Q When do you typically take lunch when you are an [3] ISO working that shift back in April of 2002?  
 [4] A Anywhere between say like 10:30 and twelve, [5] depending on what we had ahead of us.  
 [6] Q And how long were you at lunch period?  
 [7] A Thirty minutes.  
 [8] Q Thirty minutes?  
 [9] A Yes.  
 [10] Q Were you out longer than thirty minutes with [11] Officer Reynoso that day of April 8, 2002?  
 [12] A I don't know.  
 [13] Q Okay.  
 [14] A It happened so quickly that I don't know.  
 [15] Q Now the second paragraph says that after this [16] incident you notified the following supervisors that you [17] were concerned with your safety, then you list first [18] Fernando Messer. Do you see that?  
 [19] A Yes I do.  
 [20] Q Do you remember what your discussion was with Mr. [21] Messer when you described you were concerned with your [22] safety?  
 [23] A No I don't.  
 [24] Q Do you remember when you had that conversation [25] with him?

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[1] A No I don't.  
 [2] Q Do you have any general memory as to what you said  
 [3] to him about your concern of your safety?  
 [4] A I don't remember.  
 [5] Q Do you have a memory of speaking to Captain  
 [6] Bollinger about your concern with your safety?  
 [7] A Yes.  
 [8] Q And when did that occur?  
 [9] A April 8, the day of the incident.  
 [10] Q The day of the incident? Okay. And what is your  
 [11] memory of what you told him about your concern for your  
 [12] safety?  
 [13] A I believe I told him that I think he's going to [14] kill me  
 for going to the police.  
 [15] Q Okay.  
 [16] A Or for telling on him. I don't know if it was [17] going to  
 the police or telling on him in general.  
 [18] Q And you also list here Cynthia Lord, Human  
 [19] Resources Manager. What is your memory you told Ms. Lord  
 [20] about your concerns of your safety?  
 [21] A It was the day of the incident also. She was in [22] the  
 meeting with the warden and me when the incident [23] occurred  
 and I told them I was scared.  
 [24] Q Okay. Did you express to Fernando Messer, Captain  
 [25] Bollinger or Cindy Lord other than on April 8, 2002 that you

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[1] made by Officer Reynoso.  
 [2] Did he ever threaten you here on the compound?  
 [3] A Yes.  
 [4] Q And did you ever complain to anyone about that?  
 [5] A No.  
 [6] Q Can you tell me about the times he threatened you  
 [7] here on the premises?  
 [8] A When he would see me talking to somebody, some  
 [9] guy, he used to threaten me.  
 [10] Q And what would he say to you?  
 [11] A It's over if you continue to talk to him. He only [12] wants  
 to sleep with you. They talk bad about you Colleen. [13] Don't let  
 me catch you talking to another guy again. Things [14] like that.  
 [15] Q Did he threaten you with any physical harm while  
 [16] you were on the compound?  
 [17] A I don't recall.  
 [18] Q Now you describe a meeting in here with Jerry  
 [19] Martinez and Lois Swiderski on April 24, 2002. Do you see  
 [20] that there?  
 [21] A Yes I do.  
 [22] Q Can you describe for me that meeting?  
 [23] A I know there was a union representative there. I [24] just  
 don't remember who it was. And we went in to discuss [25] what's  
 going on basically with my hours being changed. Him

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[1] were scared for your safety?  
 [2] A I don't remember.  
 [3] Q Okay. Next it says that following these [4] discussions,  
 you changed my hours to 7 a.m. to 4 p.m., to 6 [5] a.m. to 2:30  
 p.m. Do you see that?  
 [6] A Yes.  
 [7] Q Is that an accurate sentence?  
 [8] A I don't believe so.  
 [9] Q And what is inaccurate about this sentence?  
 [10] A My hours when it occurred, I believe was 6:30 to  
 [11] 3:00.  
 [12] Q Okay. And the next sentence says to date, this is [13] the  
 only action that you have authorized to. And you have [14] in  
 quotes "to protect" and then me. Do you see that?  
 [15] A Yes.  
 [16] Q Why did you put to protect in quotes?  
 [17] A I don't know.  
 [18] Q Did someone at some point tell you that your hours  
 [19] were changed to keep you away from Officer Reynoso?  
 [20] A I don't remember.  
 [21] Q Do you remember someone at some point telling you  
 [22] that the hours were changed to as you put it here, to  
 [23] protect you from Officer Reynoso?  
 [24] A I don't remember.  
 [25] Q Okay. Just a quick question back on the threats

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[1] still being allowed to have access around the institution  
 [2] where I was restricted and they just got - I didn't get any  
 [3] good responses from them.  
 [4] Q Who called for that meeting?  
 [5] A Maybe the union but I'm not a hundred percent. I  
 [6] could have though the union called for it. I don't [7] remember.  
 [8] Q And do you remember where you met?  
 [9] A Yes.  
 [10] Q Where was that?  
 [11] A The warden's office.  
 [12] Q And present at the meeting, do you remember Jerry  
 [13] Martinez and Lois Swiderski but you're not sure if there's a  
 [14] union person there or not?  
 [15] A No. There was a union person.  
 [16] Q There was?  
 [17] A Yes.  
 [18] Q Do you know who that was?  
 [19] A No.  
 [20] Q Okay. And what did you express to Mr. Martinez [21] and  
 Ms. Swiderski at that meeting?  
 [22] A I don't remember the whole - I just remember  
 [23] discussing like my hours. I don't remember.  
 [24] Q And when you say you were discussing your hours,  
 [25] did you object to the change in your hours?

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[1] A Yes.  
 [2] Q What was your objection?  
 [3] A I wanted to work the normal, my normal shift. I [4] didn't want the special shift for me to work the 6:00 to [5] 2:30.  
 [6] Q And why was that?  
 [7] A Because I didn't think it was fair.  
 [8] Q You didn't think what was fair?  
 [9] A That they had to make up a special shift for me [10] and I didn't do anything wrong.  
 [11] Q Okay. Did you know at that time that Officer Reynoso's shift was changed?  
 [12] A Most likely I did. But I don't remember when I [14] found out. I know his shift changed. I just don't know [15] when I found out.  
 [16] Q Okay. Do you think that you knew his shift was changed by the time of this meeting, April 24, 2002?  
 [18] A I don't remember.  
 [19] Q Okay. You say here that you explained to Mr. Martinez and Ms. Swiderski that you felt that your safety was in jeopardy because Reynoso had access to your work schedule, emergency contact information. Do you see that there?  
 [24] A Yes I do.  
 [25] Q What did you think he was going to do with that

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[1] I weren't getting one. What were you waiting for?  
 [2] A Back then, I believe I was waiting for just to be [3] normal with my coworkers. Just to work normal hours. [14] think that's what I was waiting for. I don't know what [5] else. I can't remember.  
 [6] Q Okay. So you were at that point, you just wanted [7] to work your old shift?  
 [8] A Yes.  
 [9] Q Okay. Anything else that you were looking for at [10] that point?  
 [11] A For him not to be around at all in the [12] institution.  
 [13] Q What do you mean around at all?  
 [14] A Well, I just wanted to be able to come and go like [15] a normal worker here. And for him not to be around when I'm [16] coming and going.  
 [17] Q Okay. But wasn't that accomplished by changing [18] his hours. For his start time to occur after your duty day [19] ended?  
 [20] A No.  
 [21] Q That was not? He would still be around?  
 [22] A Yes. That's why they changed my hours. So I [23] would not be around and I wanted to be able to roam free. [24] Like be able to come and go in my normal schedule and stuff [25] and I wasn't able to do that.

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[1] information?  
 [2] A I don't remember.  
 [3] Q Okay. Did Reynoso know where you lived at the [4] time?  
 [5] A Yes.  
 [6] Q You state in here also that in the past Mr. [7] Reynoso told you that he would watch you while you would [8] work through the surveillance cameras. Do you see that?  
 [9] A Yes.  
 [10] Q Did that occur after April 15, 2002?  
 [11] A Not that I am aware of. I don't know.  
 [12] Q Not that you're aware of?  
 [13] A Yeah. I don't know.  
 [14] Q Well you say here that he would then call you to harass you about who you spoke with while you were walking.  
 [15] Do you have any memory of him calling and doing that?  
 [17] A Yes.  
 [18] Q After April 15, 2002?  
 [19] A Oh, no.  
 [20] Q So when you say in the past that he would do that, you meant before April 15, 2002?  
 [22] A Yes.  
 [23] Q Okay. Now you say here at the end that eighteen days after your April 24, 2002 meeting with Martinez and Swiderski, you were still awaiting a solution but you

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[1] Q Right. Well you just said that you wanted a [2] solution whereas he wouldn't be on the premises when you [3] were on the premises. Is that fair to say?  
 [4] A Yes.  
 [5] Q And wasn't that accomplished by changing your [6] hours to what they changed it to and changing his hours to [7] what they changed it to?  
 [8] A No.  
 [9] Q And why is that?  
 [10] A Because they changed my hours at - they [11] completely changed my shift compared to what a normal shift [12] in the ISM department was.  
 [13] Q Okay.  
 [14] A So I had to come in earlier so I wouldn't have to [15] see him instead of allowing me to work my normal hours.  
 [16] Q Would you agree that you had both, if both of you [17] stuck to your schedules, you would not be on the premises at [18] the same time?  
 [19] MS. MCDONALD: Objection of form.  
 [20] A I don't understand the question.  
 [21] BY MR. WILMOT:  
 [22] Q If you worked the scheduled that you were [23] reassigned to.  
 [24] A Okay.  
 [25] Q --and Officer Reynoso worked the schedule that

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[1] you understood they changed his schedule to after April 15.  
 [2] 2002, is it fair to say that you would not be on the [3] premises  
 at the same time during your duty work hours?  
 [4] A Yes. It's fair to say that.  
 [5] Q Okay. In the last paragraph you say here that it [6] is perplexing to you that FMC continues to allow Mr. Reynoso [7] to remain working at the same facility. Do you see that?  
 [8] A Yes.  
 [9] Q What did you mean by that? Did you - can you  
 [10] explain what you meant by that statement?  
 [11] A I thought that if you could not carry a firearm, [12] you could not work here.  
 [13] Q So you thought he should have been terminated?  
 [14] A Or transferred or removed to the camp.  
 [15] Q At this time, May 13, 2002, you felt that when you [16] said it was perplexing to you that he would be allowed to remain working at the same facility, you meant that he [18] should be fired, transferred or removed to the camp? Is [19] that your testimony?  
 [20] A Yes.  
 [21] Q Okay. The last sentence here says that you do not [22] feel that your safety concerns were being seriously [23] considered. Do you see that?  
 [24] A Yes.  
 [25] Q And why did you believe that?

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[1] (DOJ Exhibit 31 was marked for [2] identification.)  
 [3] BY MR. WILMOT:  
 [4] Q Do you recognize that document?  
 [5] A Yes.  
 [6] Q Can you identify what it is?  
 [7] A It's a letter to my supervisor, Steve Gagnon, [8] regarding safety issues.  
 [9] Q And do you remember talking to Steve Gagnon about [10] these safety issues that you address in your memo before [11] giving him this memo?  
 [12] A I don't remember.  
 [13] Q Okay. What's the date of this memo?  
 [14] A June 10, 2002.  
 [15] Q Okay. And how did you deliver it to Steve Gagnon?  
 [16] A I don't remember.  
 [17] Q Do you remember if you gave it to him by hand?  
 [18] A I don't remember.  
 [19] Q Do you remember some meeting with Steve Gagnon [20] after you delivered this memo to him?  
 [21] A I don't remember.  
 [22] Q Okay. Do you want to take a read of the memo for [23] the details there? And I'm asking you to read it because I [24] just want to ask if it refreshes your memory of you speaking [25] with Steve Gagnon about any of these details that are

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[1] A Again I just have to say to do with my hours. I [2] felt as though I was treated differently because of it.  
 [3] Q Okay.  
 [4] A They changed my hours. So I felt, that's what I [5] meant by that.  
 [6] Q Okay. You felt that they should have done [7] something more?  
 [8] A Yes.  
 [9] Q What else were you looking for?  
 [10] A For him to go back to, go back to the camp or [11] transferred to a different facility or just something so [12] that I was able to perform my regular duty hours.  
 [13] Q Okay. And did you feel if he were, if they were [14] to do that, if they were to transfer him to the camp or [15] something like that, your safety concerns would have been [16] addressed?  
 [17] A Yes, in some ways, yes.  
 [18] Q And what ways would it have addressed your safety [19] concerns?  
 [20] A Because I would be able to roam the institution [21] without having to run into him and without him watching me [22] on the camera and just do my normal daily functions.  
 [23] MR. WILMOT: I am going to show you what has been [24] marked Exhibit 31. [25] //

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[1] contained in your memo?  
 [2] A Okay.  
 [3] (Witness reviews document.)  
 [4] THE WITNESS: I still don't remember if I spoke to [5] him.  
 [6] MR. WILMOT: Okay. I'm going to show you what has [7] been marked as Exhibit 32.  
 [8] (DOJ Exhibit No. 32 was marked for [9] identification.)  
 [10] BY MR. WILMOT:  
 [11] Q Do you recognize that document?  
 [12] A Yes, yes.  
 [13] Q Can you identify it?  
 [14] A It's a memorandum to the warden through Steve [15] Gagnon from me regarding my safety issues.  
 [16] Q And what is the date of that memo?  
 [17] A June 12, 2002.  
 [18] Q If you compare Exhibit No. 32 and 31 together, [19] would you agree with me that the content of the memo is [20] identical?  
 [21] A Yes I would.  
 [22] Q Any reason why you address the memo that you sent [23] or you gave to Steve Gagnon on June 10, 2002, why you would [24] have sent the same memo to the warden on June 12, 2002?  
 [25] A I don't know.

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[1] Q Do you remember if Steve Gagnon directed you to do [2] that?  
 [3] A I don't know.  
 [4] Q Okay. In that first sentence that says that the [5] purpose of this memo is to request another assessment of [6] workplace violence stemming from the situation that occurred [7] on April 8, 2002 between myself and David Reynoso.  
 [8] Is it fair to say that there was a workplace [9] violence assessment of that incident prior to the date of [10] your memo dated June 12, 2002?  
 [11] A Yes. I was told there was.  
 [12] Q Who told you that?  
 [13] A I talked to so many people. I don't know who told [14] me. I don't remember.  
 [15] Q Do you know who was involved in that assessment?  
 [16] A No.  
 [17] Q Were you ever spoken to in regards to that [18] assessment?  
 [19] A Can you rephrase that?  
 [20] Q Was anyone who was involved in doing assessments; [21] speak to you about the incident?  
 [22] A Not that I'm aware of. I don't even know who was [23] on the panel. I don't remember who was on the panel.  
 [24] Q Do you know what that panel concluded when they [25] assessed the April 8, 2002 incident?

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[1] A Yes.  
 [2] Q Your June 12, 2002 memo?  
 [3] A I believe it was that day. I don't remember what [4] date but she did suggest that I have another workplace [5] violence committee - suggested that I have another [6] workplace violence committee meeting.  
 [7] Q Okay. And do you remember what you spoke to her [8] about other than asking for another workplace violence [9] committee assessment?  
 [10] A I believe it was just about my past with David [11] Reynoso. The abuse.  
 [12] Q Okay.  
 [13] A I believe that was it but I don't know everything [14] that I said to her.  
 [15] Q Okay. Now in the memo which is Exhibit 32. You [16] describe in this memo the occasions when you were threatened [17] by Office Reynoso, or felt threatened by him.  
 [18] Prior to the dates of these two memos, the [19] identical memos, June 10, 2002 and June 12, 2002, had you [20] brought these threats to the attention of any supervisor [21] with the department before?  
 [22] A Prior to June 10?  
 [23] Q Yes.  
 [24] A Yes I did.  
 [25] Q To who?

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[1] A That there was no, that it wasn't considered [2] workplace violence.  
 [3] Q Okay. So you were requesting here another [4] assessment of that incident?  
 [5] A Yes.  
 [6] Q And why did you want them to conduct another [7] assessment?  
 [8] A Well I spoke to Dr. Susan Bates, EAP counselor, [9] and she suggested that I write this memorandum.  
 [10] Q And when was that conversation?  
 [11] A I don't recall. It was prior to this memo, that's [12] all I remember.  
 [13] Q Do you remember how you came to meet with Dr. [14] Bates?  
 [15] A Yes.  
 [16] Q How?  
 [17] A Steve Gagnon wrote a memorandum suggesting that [18] I - in light of the situation that happened, that I speak [19] to an EAP counselor. So I made an appointment with Dr. [20] Bates.  
 [21] Q Okay. And how many, how often did you meet with [22] Dr. Bates?  
 [23] A I met with her once and that was it.  
 [24] Q So in that one meeting, she suggested that you [25] write this memo?

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[1] A To Cindy Lord, the warden, Fernando Messer, I [2] believe. I'm not a 100 percent with him.  
 [3] Q And I think you testified earlier that you told [4] them that you thought he would kill you, right?  
 [5] A Yes.  
 [6] Q Is it your testimony that you described the [7] incidences that you described in this memo to those persons [8] during those meetings on April 8, 2002?  
 [9] A No. That is not my testimony.  
 [10] Q Okay. Well my question was had you ever brought [11] these incidences to the attention of any supervisor or HR [12] person within the agency prior to June 10, 2002?  
 [13] A Just that he would kill me. That's the only thing [14] that I brought to their attention.  
 [15] Q Okay. So this is the first time that you brought [16] any specifics to anyone's attention within the agency?  
 [17] A Yes I believe so.  
 [18] Q Okay. And do you remember what the response was [19] to this June 12, 2002 memo?  
 [20] A Yes.  
 [21] Q And what was it?  
 [22] A Steve Gagnon asked me to come upstairs with him [23] which meant to come up on the compound, the admin building, [24] and he brought me in to see Mr. Meeks, who is the associate [25] warden at the time.

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[1] When I sat down with Mr. Meeks he said there will [2] be no assessments of workplace violence. There was one and [3] there is not going to be anymore and that's it.

[4] Q Did Steve Gagnon say anything in that meeting?

[5] A No.

[6] Q Was anyone else present at that meeting?

[7] A No.

[8] Q And what did you say in response to what Mr. Meeks [9] told you?

[10] A I don't remember if I said anything at all. I [11] think I was in - I don't remember. I just remember him [12] telling me that. I don't think I said much.

[13] Q Okay.

[14] A It lasted all of five minutes, if that.

[15] Q Okay. If you look at paragraph 14 of your [16] Complaint. Paragraph 14 you state that plaintiff advised [17] her supervisors of threats made against her by Reynoso. Do [18] you see that there?

[19] A Yes I do.

[20] Q Are you referring to your conversation with

[21] supervisors on April 8, 2002 in that paragraph?

[22] A Yes I am.

[23] Q Okay. In paragraph 15, it says that the [24] plaintiff's supervisors did not believe her and instead [25] blamed her for the assault committed upon her and otherwise

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[1] Reynoso. That he shouldn't go out to the camp and that's

[2] why he gave him a day of admin leave.

[3] Q Any other comments that paragraph 15 is referring [4] to?

[5] A I don't remember exactly who I was talking to [6] whether it be Steve Gagnon or Fernando Messer, but I was [7] told that the warden, when I was complaining about my hours [8] being changed, I was told the warden said that he's not [9] guilty until proven in a court of law or something to that [10] effect. I'm paraphrasing it. I don't know the exact words.

[11] Q In the next sentence in paragraph 15 it says that [12] the plaintiff was told by supervisors that the warden [13] believed Reynoso was innocent until proven guilty. Do you [14] see that there?

[15] A Yes.

[16] Q Is that the comment you were just referring to?

[17] A Yes. But I just don't know the exact wording to [18] it.

[19] Q Okay. You say that the supervisors told you that [20] that was the warden's belief. Who told you that?

[21] A I don't remember.

[22] Q Okay.

[23] A It was probably one of the three, Fernando Messer,

[24] Lois Swiderski or Steve Gagnon.

[25] Q Okay. And you believed that that comment showed

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[1] made comments in support of Reynoso and against the [2] plaintiff. Do you see that?

[3] A Yes.

[4] Q What comments were you referring to in that [5] sentence?

[6] A The warden, when I was discussing issues with [7] regard to my hours changed, he told me I didn't cause this [8] problem, you two caused this problem. And I had Brown say [9] to me during the investigation regarding my AWOL and I don't [10] know why you and Reynoso can't work this out. I like him, [11] he's a cool cat.

[12] I also, Lois Swiderski told me that - she said [13] when I was explaining how I felt my hours shouldn't be [14] changed and all that, she said that at least when you know [15] he's at work, at least - I don't remember - at least when [16] he's at work, you know where he is.

[17] And then Steve Gagnon also said to me when you see [18] him, when you see David Reynoso, just - it's your [19] obligation to turn the other way, don't cause any problems. [20] Even though I had the restraining order on him, against [21] David Reynoso, he told me that. What else was said to me? [22] Oh, the warden, when I was coming back in November [23] 2003, the warden told me I was assigned to come back to R&D, [24] Receiving and Discharge. And Reynoso was sent out to the [25] camp. And the warden told the union that he felt bad for

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[1] that the warden did not believe your rendition of what [2] happened on April 8, 2002?

[3] A Yes.

[4] Q Okay. You also described a comment you said the [5] warden made in November of 2003. That he felt bad for [6] Reynoso?

[7] A Yes.

[8] Q Who told you that?

[9] A Mark Shaughnessy, the former union president.

[10] Q And when did he tell you that?

[11] A I believe it was upon returning to work.

[12] Q Do you remember what your response was to that [13] statement?

[14] A No I don't.

[15] Q Do you know what else he told you in that [16] conversation?

[17] A Just that Reynoso had received admin leave for one [18] day. What else? I don't remember.

[19] Q Do you remember when you were told that by Mark [20] Shaughnessy?

[21] A I know when it was when I returned to work. But I [22] just don't remember when.

[23] Q Okay. It was the day that you returned that you [24] had that conversation with him?

[25] A No. I don't remember.

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[1] it difficult for you and Mr. Reynoso to come into contact [2] with one another?  
 [3] A That does sound familiar, but I don't remember who [4] or when or what said that to me.

[5] Q It goes on to say that you have expressed concern [6] over your safety and the fact that Mr. Reynoso is allowed to [7] walk in the facility. As I have discussed with you [8] previously, the abuse prevention order states that Mr. [9] Reynoso is lawfully allowed to work but should avoid contact [10] with you. Do you see that?

[11] A Yes.

[12] Q And it says here that he discussed this with you [13] previously. Do you have a memory of that? A discussion [14] with the warden before June 20, 2002 that because the [15] prevention order allows Mr. Reynoso to work but to avoid [16] contact with you that they were going to allow him to work [17] in the facility?

[18] A I don't remember.

[19] Q Okay. Now paragraph 21 of your Complaint says [20] that plaintiff was advised by supervisors that she could no [21] longer work overtime without seeking special permission so [22] that she would not come into contact with Reynoso. Reynoso [23] is free to work all overtime that he desires. Do you see [24] that there?

[25] A Yes.

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[1] overtime, he was coming in at the same time so I believe, I [2] don't know if that was his, I believe that was his overtime, [3] that he was doing overtime too, [4] Q Okay.

[5] A But I had to ask permission which I was granted [6] permission by Steve Gagnon and when I complained about it, [7] Steve Gagnon said that you're all set Colleen, you didn't do [8] anything wrong, you came to me. They wouldn't have let him [9] work that overtime if they knew you were going to be there [10] or something to that effect.

[11] Q So the fact that you ran into him is why you [12] believe he didn't seek this special permission in order to [13] work overtime?

[14] A Yes.

[15] Q Okay. Now paragraph 22, you say that on or about [16] July 3, 2003, Reynoso pledges sufficient facts for finding [17] of guilty domestic assault and battery with a dangerous [18] weapon in Ayer District Court. Do you see that there?

[19] A Yes.

[20] MR. WILMOT: I am going to show you what has been [21] marked as Exhibit 36 and 37.  
 [22] (DOJ Exhibits No. 36 and 37 were [23] marked for identification.)

[24] BY MR. WILMOT:

[25] Q Do you recognize Exhibit 36?

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[1] Q Do you know whether or not Reynoso received [2] special attention to work overtime hours?  
 [3] A I don't understand the question.  
 [4] Q You said in the previous sentence that you had to [5] seek special permission to work overtime hours. Do you see [6] that there?

[7] A Yes.

[8] Q Do you know whether Mr. Reynoso had to go through [9] that same procedure in order to work overtime hours?

[10] A I don't know.

[11] Q Okay. Well here you say that he was free to work [12] all the overtime he wanted. Did you ever believe that he [13] did not have to seek special permission?

[14] A I believe he didn't.

[15] Q He did not?

[16] A He did not since I had to check with my supervisor [17] when I could work and when he wasn't going to be in the [18] institution.

[19] Q Okay.

[20] A And I happened to run into him and I later found [21] out that he never had to - he could just come and go [22] whenever he wanted to.

[23] Q Well concerning the overtime, how do you know that [24] he did not have to seek special permission to work overtime?

[25] A Because when I was leaving the institution from my

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[1] A Yes I do.  
 [2] Q Can you identify what it is?  
 [3] A It's conditions of his probation.  
 [4] Q His being Mr. Reynoso?  
 [5] A Yes.  
 [6] Q Okay. Can you read what the conditions are?  
 [7] A "Stay away from Colleen O'Donnell and her family [8] and abide by the restraining order."  
 [9] Q Do you know when this probation order started?  
 [10] A I assume that day, I don't know.  
 [11] Q Okay. On the upper right hand corner it says the [12] probation start date. Do you see that?  
 [13] A Oh, yes.  
 [14] Q And what is the start date?  
 [15] A January 3, 2003.  
 [16] Q And does it have a probation end date?  
 [17] A April 2, 2004.  
 [18] Q Okay. And then the next document Exhibit 37, can [19] you identify what that document is?  
 [20] A Criminal Docket.  
 [21] Q And here it says midway through, deposition date [22] and judge. It says January 3, 2003. Do you have a memory [23] of a hearing in this matter on January 3, 2003?  
 [24] A Yes.  
 [25] Q Can you describe that hearing to me?

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[1] A January 3, 2003. He pled guilty to sufficient [2] facts and I had to give a Victim Impact Statement. And then [3] it ended. I know there was a lot of behind the door, like [4] with the attorneys behind the door which I wasn't allowed to [5] do. But other than that, I don't remember anything else.

[6] Q Now in the timeframe between April 15, 2002 when [7] you returned back to work after the incident, and the date [8] of this hearing July 3, 2003 (sic), did you have any [9] interaction with Mr. Reynoso?

[10] A Yes.

[11] Q Can you tell me about each time that you did?

[12] A I can generalize it but I don't have-

[13] Q That's fine.

[14] A A lot of phone conversations.

[15] Q Okay.

[16] A Never physical. Like never seeing each other. A [17] lot of phone conversations.

[18] Q Okay. Do you remember after April 15, 2002, what

[19] was the first conversation that you had? I think you

[20] described some of them to me.

[21] A He called to apologize for that woman, D%

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[1] Q Okay. You were saying that you would be crying a [2] lot. So would you call him crying?

[3] A I don't know if I called him. I know I cried a [4] lot but I don't remember.

[5] Q Do you have a general memory as to why you would

[6] have called him? What you wanted to talk about?

[7] A No. I was in such a fog, I don't remember.

[8] MS. MCDONALD: Can I have a quick bathroom break.

[9] MR. WILMOT: Sure.

[10] (Off the record from 3:00 to 3:07 p.m.)

[11] BY MR. WILMOT:

[12] Q You were testifying that there were times when you

[13] would call Officer Reynoso?

[14] A Yes.

[15] Q I think you said it would always be when he was at

[16] work?

[17] A No, because he would call me when he was at work

[18] too.

[19] Q I'm talking about the times when you called him.

[20] Where would he be?

[21] A Mostly at work.

[22] Q Would you also be at work at those times?

[23] A No.

[24] Q And do you know what his shift was during this

[25] timeframe between April 15, 2002 to January 3, 2003?

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[1] le Weaver calling.

[2] Q Okay. And is that the one he made from the pay

[3] phone?

[4] A Yes, yes.

[5] Q And you said before that it was a week or two [6] weeks after the phone call where he and Danielle Weaver were [7] on the phone?

[8] A Yes, approximately a week or two.

[9] Q Okay. And you said that the next phone call came [10] on August or September?

[11] A Around there, yes. I don't have exact dates.

[12] Q Okay. After that phone call, when was the next [13] one, do you remember?

[14] A It was frequent. We called each other frequently.

[15] Q So you would call him as well?

[16] A Yes.

[17] Q Would you call him at his home or would you call

[18] him at work?

[19] A At work mostly.

[20] Q Okay. And what were you calling him to say?

[21] A Just crying a lot. I don't remember a lot but I [22] just know that I cried a lot. And he cried a lot.

[23] Q So you would call him. Would you call him to talk

[24] about your relationship?

[25] A I don't remember.

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[1] A I don't remember. It could be 4:00 to midnight or [2] midnight to 8:00, most likely.

[3] Q Okay.

[4] A Because I was day watch.

[5] Q Okay. Do you remember if your conversations

[6] concerned your desire to maybe reconcile your relationship

[7] with him?

[8] A We had conversations about the upcoming trial. He

[9] told me if he loses his job, like if he loses his job he's [10] not going to be able to pay the rent because he lives with [11] his mother and pays his mother's rent and she was really [12] sick and had medical bills.

[13] We talked about, I don't know if we talked about, [14] I know I didn't want to, I felt so bad, I thought I was [15] still in love with him and didn't want to go through with [16] anything anymore. I couldn't deal with it.

[17] I'm not sure if it's exactly reconciling. I can't [18] remember for sure, but I know it was on the basis of you [19] know, if he goes to trial, he's going to lose his pay, his [20] mother's going to be out on the street, he's going to be out [21] on the street.

[22] Also, you know, he still loved me, I still loved [23] him. That type of conversation.

[24] Q You said earlier that after April 15, 2002, he [25] never physically threatened or threatened you with physical

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[1] harm again. Do you remember that?  
 [2] A Yes I remember that.  
 [3] Q During this timeframe that you're describing, your [4] phone calls between April 15, 2002 and January 3, 2003, did [5] you still feel that he was a danger to you?  
 [6] A Yes. I was still scared of him.  
 [7] Q Okay.  
 [8] A I'll always be scared of him.  
 [9] Q But you called him anyway?  
 [10] A Yes.  
 [11] Q Have you ever heard of a restaurant or bar in [12] Chelsea called the Jug?  
 [13] A The Brown Jug. Yes, I was a bartender there.  
 [14] Q You were a bartender there?  
 [15] A Yes.  
 [16] Q Do you have a memory of calling Mr. Reynoso about [17] 11:15 p.m. on November 29, 2002 where you expressed to him [18] that you did not want to go with criminal charges filed [19] against him?  
 [20] A I don't remember. I remember having a [21] conversation about I didn't want to go through with it but I [22] don't remember when it was. But I do remember saying that I [23] didn't want to go through with it.  
 [24] Q Do you have a memory of telling him that you were [25] hoping that he and you would get married during this

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[1] Q What made you change your posture on what you [2] wanted to happen at that hearing, from not going through [3] with it to asking the judge to incarcerate Mr. Reynoso?  
 [4] A It was the support. I was in a domestic violence [5] support group and they're the ones that helped me write the [6] victim impact statement and - I still felt bad that day but [7] I think that's the reason. I think they helped me write the [8] victim impact statement.  
 [9] Part of me felt I still really loved him and felt [10] really bad about everything. And then part of me at that [11] time, couldn't believe that he did this to me. I was in [12] pretty bad shape mentally.  
 [13] Q At that time, did you have any representation with [14] you at the January 3, 2003 hearing?  
 [15] A The assistant district attorney was there. I just [16] had the director of a woman's group called Portal to Hope. [17] She was there for support.  
 [18] Q What is her name?  
 [19] A Deborah Fallon.  
 [20] Q Okay.  
 [21] A My mother was there. My sister was there. My [22] cousin, Linda Sweeney was there. And there were some people [23] from work there.  
 [24] Q Some people from work?  
 [25] A Yes.

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[1] timeframe April 2002 and January 3, 2003?  
 [2] A I don't recall ever saying that. I don't [3] remember.  
 [4] Q Okay.  
 [5] A There was a lot of talk prior to that. But I [6] don't remember.  
 [7] Q Okay. Do you have a memory of talking to Reynoso [8] on December 9, 2002 stating to him that you were being [9] forced to do what you were doing in court?  
 [10] A Again I don't remember that. No. I just remember [11] that context of not wanting to go through with it and [12] talking to him about it.  
 [13] Q Do you remember what your testimony was at the [14] hearing on January 3, 2003?  
 [15] A Yes.  
 [16] Q And what was that?  
 [17] A It was a Victim Impact Statement. That's the only [18] testimony I gave, I believe.  
 [19] Q Okay.  
 [20] A I think, you know, I don't remember. I think [21] that's the only thing I did was the Victim Impact.  
 [22] Q Okay. Do you have a memory of telling the judge [23] that you did want Mr. Reynoso to receive probation but to be [24] incarcerated?  
 [25] A Yes.

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[1] Q Who from work?  
 [2] A Holly Glover. Brian Padula. Michael Mathon. [3] Stephanie Powers. I feel like there were more but I can't [4] remember. I said my sister and my mother. I don't [5] remember.  
 [6] Q Okay. Do you remember what Stephanie Powers [7] position was within the DOP at the time of that hearing?  
 [8] A Correctional officer.  
 [9] Q Is she still employed by the department?  
 [10] A Yes.  
 [11] Q And you said there's a Michael Mathon?  
 [12] A Yes.  
 [13] Q What was his position during the time of the [14] hearing?  
 [15] A I believe a senior officer specialist.  
 [16] Q And is he still employed by the Bureau?  
 [17] A Yes.  
 [18] Q Okay. It says your testimony that your statement [19] during the hearing was a prepared statement?  
 [20] A Yes.  
 [21] Q Okay. And did Mr. Reynoso go to the hearing with [22] anyone?  
 [23] A Yes.  
 [24] Q Do you remember who?  
 [25] A His mother was there. And a woman was there with

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[1] him. And an attorney.  
 [2] Q Do you know who the woman was?  
 [3] A Yes.  
 [4] Q Who was she?  
 [5] A Sarah Carpenter.  
 [6] Q Do you know what her relationship was to Mr. [7] Reynoso at the time of that hearing?  
 [8] A She's really good friends with his sister and he [9] used to date her so I wasn't too sure.  
 [10] Q Okay. Were you surprised to see her there?  
 [11] A Yes.  
 [12] Q And why was that?  
 [13] A Because the last time I spoke to his sister - he [14] used to beat Sarah up, and she was happy because she finally [15] got away from him. And that was probably two years prior to [16] that trial date that I talked to his sister about that [17] because his sister was still friends with her.  
 [18] Q And how do you know what Sarah Carpenter looked [19] like?  
 [20] A Pictures from - we went to Florida and his sister [21] has pictures of her in her house in frames.  
 [22] Q Do you remember her from those pictures?  
 [23] A Yes.  
 [24] Q And on the date of the hearing, you saw that it [25] was her?

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[1] A Yes. I wasn't 100 percent. I assumed it was her.  
 [2] Q Okay. And did it anger you to see Sarah Carpenter [3] at the hearing?  
 [4] A It hurt me more than anything.  
 [5] Q And why were you hurt?  
 [6] A I thought I was still in love with him at the [7] time. I guess, you know, even though I knew what he did was [8] wrong, I still...  
 [9] Q I'm sorry?  
 [10] A Even though I knew what he did was wrong, I was [11] still in love. My head wasn't straight.  
 [12] MS. MCDONALD: Can we take a break for a minute?  
 [13] MR. WILMOT: Sure.  
 [14] (Off the record from 3:19 to 3:27 p.m.)  
 [15] BY MR. WILMOT:  
 [16] Q At the hearing on January 3, 2003, did you speak [17] with Mr. Reynoso at all?  
 [18] A At the hearing?  
 [19] Q At the hearing?  
 [20] A No.  
 [21] Q Okay. Did he speak to you at all?  
 [22] A No.  
 [23] Q Did he make any gesture towards you at the [24] hearing?  
 [25] A He smiled at me when I first walked in.

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[1] Q Did he do anything threatening towards you?  
 [2] A No.  
 [3] Q Okay. Did his family members say anything to you?  
 [4] A No.  
 [5] Q Okay.  
 [6] A You know, what I did forget. That I believe - I [7] don't know if I told you that Al Colon, he was at the [8] hearing too.  
 [9] Q Al Colon was there too?  
 [10] A Yeah.  
 [11] Q Okay.  
 [12] A I believe so. I'm not a hundred - I believe he [13] was at one of the hearings. I think that's the one.  
 [14] Q To support you or Mr. Reynoso?  
 [15] A To support me.  
 [16] MR. WILMOT: Okay. I am going to show you what [17] has been marked as Exhibit 38.  
 [18] (DOJ Exhibit No. 38 was marked for [19] identification.)  
 [20] BY MR. WILMOT:  
 [21] Q Do you recognize this document?  
 [22] A Yes.  
 [23] Q Can you tell me what that is?  
 [24] A That's a memorandum from me to the warden  
 [25] regarding January 3rd, the trial, David Reynoso's trial.

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[1] Q His plea?  
 [2] A Yes, his plea.  
 [3] Q Okay. Do you remember how you delivered this to [4] the warden?  
 [5] A I know that when it was over with that day, I came [6] and I actually physically talked to the warden and Steve [7] Gagnon.  
 [8] Q So the day of the hearing January 3, 2003, you [9] spoke to the warden and Steven Gagnon?  
 [10] A Yes.  
 [11] Q Do you remember what you told them?  
 [12] A Basically what's in the memo. That he pled [13] guilty. He was on probation but I told him that it was [14] going to be off his record like if he doesn't do anything [15] wrong within the next fifteen months.  
 [16] Q Okay. Did you provide them with any documents?  
 [17] A January 3rd? I don't believe I did. I just [18] showed up, I didn't have an appointment.  
 [19] Q Okay. If you just showed up, did you show up at [20] the warden's door?  
 [21] A Actually I showed up - as I was walking through [22] the lobby, Steve Gagnon happened to be leaving the warden's [23] office and he brought me up and I told him what happened.  
 [24] And he brought me up to the warden's office and the [25] secretary talked to the warden and we were able to go on and

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[1] see him.

[2] Q Okay. Do you remember what, if anything, the [3] warden said to you when you gave him this information?

[4] A He said give me 'til Monday. He said write a memo [5] and give me 'til Monday or Tuesday, Monday or Tuesday, I [6] don't remember the exact date, one of those days. And I'll [7] have you back in R&amp;D, because Steve Gagnon was saying, you [8] know, she needs to get back to R&amp;D. She needs to learn more [9] stuff in R&amp;D and he said give me 'til Monday or Tuesday, let [10] me figure this all out and I'll have you back with your [11] normal schedule.

[12] Q Okay. Do you remember what else the warden said [13] in that meeting?

[14] A It was a very brief meeting. So, no I don't. I [15] just remember that.

[16] Q Okay. Do you know what else Steve Gagnon said in [17] that meeting?

[18] A I think - I just remember him saying that he [19] really wants me to get back to the swing of things in R&amp;D. [20] In Receiving and Discharge.

[21] Q Okay.

[22] A That's all I remember.

[23] Q Okay. Do you remember what time of day that was?

[24] A It was in the after - I don't know, I don't [25] remember. It was immediately after the guilty plea, but I

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[1] the results of the hearing in a memo. Is that the memo [2] there that he instructed you to write that's marked as [3] Exhibit 38?

[4] A Yes.

[5] Q Okay. And do you remember how you delivered that [6] to the warden?

[7] A I don't remember.

[8] Q Okay. Do you remember if you went back to work [9] the next day after January 3, 2003?

[10] A It was a Friday, so I went back that Monday.

[11] Q So that would have been the 6th that you returned

[12] back to work?

[13] A Yes.

[14] MR. WILMOT: I am going to show you what has been

[15] marked as Exhibit 39.

[16] (DOJ Exhibit No. 39 was marked for [17] identification.)

[18] BY MR. WILMOT:

[19] Q Do you recognize that document?

[20] A Yes. I do. I recognize it.

[21] Q Can you identify what this is?

[22] A It's my regular duty hours at ISM beginning on

[23] January 13. Just saying what my hours would be and if I

[24] wanted to work overtime, I must notify my supervisor in

[25] advance.

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[1] don't remember when it ended. I just came directly here.

[2] Q Were you working that day?

[3] A No, I had annual leave, vacation day.

[4] Q So was your sole purpose coming in that day to [5] tell the warden about the results of the hearing?

[6] A And Steve Gagnon and my supervisor. Yes.

[7] Q Okay. Did you and you said your supervisor? [8] Did you have a chance to speak to your supervisor that day?

[9] A Yes.

[10] Q And what did you talk to him about?

[11] A Just that he wanted, now that this is over, he [12] wanted to get me back in the swing of things and work in R&amp;D [13] so I can familiarize myself with that part of the [14] department.

[15] Q Okay. Are you still talking about Steve Gagnon at [16] this point?

[17] A Yes.

[18] Q Okay. Other than the warden and Steve Gagnon, did [19] you speak with anyone else about the results of the hearing [20] on January 3, 2003?

[21] A I don't remember.

[22] Q Okay.

[23] A I - no, I don't remember.

[24] Q Okay. Now you said that during your January 3, [25] 2003 meeting with the warden, he instructed you to write up

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[1] Q Okay. So your hours were going to be changed from

[2] 6:00 a.m. to 2:30 p.m. to 9:30 a.m. to 6:00 p.m. Is that [3] correct?

[4] A No.

[5] Q Okay. So what was going to happen to your [6] schedule?

[7] A I'm a little confused.

[8] Q When you received this letter and it's dated [9] January 8, 2003. What were your scheduled hours at that [10] time?

[11] A 7:30 to 4:00, I believe. 7:30 to 4:00.

[12] Q Okay. Now you testified earlier that your hours [13] when you returned back to work following this incident in [14] April 2002, the hours were changed to 6:00 until 3:30. Is [15] that right?

[16] A 6:00 to 2:30.

[17] Q To 2:30?

[18] A That's correct, yes.

[19] Q So at the time that you received this letter dated

[20] January 8, 2003, your schedule was no longer 6:00 to 2:30?

[21] A No it was not.

[22] Q When was it changed?

[23] A I hurt my back. A bunch of boxes fell on me so [24] they changed me because nobody would be in at that time. So [25] I don't know, I forgot if they changed me from 6:30 to 3:00

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[1] or 7:30 to 4:00. I'm not sure of the exact hours they  
[2] changed me but I had to report directly to the mailroom.  
[3] Q Okay.  
[4] A [REDACTED] because when you hurt yourself, you can't come  
[5] inside past Control because it's a safety issue.  
[6] Q When was that accident?  
[7] A I don't know. It was in the Summer of 2002. But [8] I don't  
remember when.  
[9] Q Okay. So some point in the Summer of 2002, your  
[10] schedule was changed to this either 6:30 or 7:30 a.m. to  
[11] 3:00 or 4:00 p.m.?  
[12] A That is correct.  
[13] Q Okay. Did you stay on that same schedule until  
[14] January 8, 2003?  
[15] A I believe I did.  
[16] Q Okay.  
[17] A Until January 7, 2003 I believe it was. Or maybe [18] - it  
was either January 7 or January 8 because that's [19] when - I  
didn't come back after that day for awhile.  
[20] Q Okay. So in that interim between the Summer of  
[21] 2002 where they changed your schedule because you injured  
[22] your back until January 7 or so of 2003, were you still  
[23] suffering from that back injury?  
[24] A Yes.  
[25] Q Okay. So I'm looking at this document that's

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[1] Swiderski and she told me that Cindy Lord wasn't in that day  
[2] either. I said I want to know. I said I want to go back to  
[3] work. And she said - well let me talk to, I believe it was [4] Rick  
Harnes who was the associate warden at the time.  
[5] She called me back and she said, Colleen, you need [6] to  
stay out in the mailroom. I don't know if it was 7:30 to [7] 4:00 or  
6:30 to 3:00. I don't remember the hours but she's [8] saying you  
need to stay out in the mailroom until further [9] notice.  
[10] And I said that's not fair and I was told by the [11] warden he  
would have a decision for me on Monday or Tuesday. [12] And I  
really don't want to work in the mailroom or mail [13] department. I  
want to go to my other department and she said [14] no, per Rick  
Harnes you cannot come in the institution just [15] yet.  
[16] Q Now this conversation was with who?  
[17] A Lois Swiderski.  
[18] Q So you had two conversations with her? You first [19] just  
called her? She said that she was going to speak with [20] Rick  
Harnes and then she called you back?  
[21] A Correct, yes.  
[22] Q Okay. And do you remember when this conversation  
[23] took place? What day?  
[24] A It was either January 7th or the 8th. The Tuesday [25] or  
the Wednesday. I'm not too sure of the exact date. It

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[1] marked as Exhibit 39. Do you remember how this was  
[2] delivered to you?  
[3] A I believe it was FedEx.  
[4] Q To your home.  
[5] A To my home. Yes. In Malden.  
[6] Q So at some point, you did not return back to work?  
[7] A Correct.  
[8] Q And what date was that? Your last working date [9] prior  
to this January 8, 2003 letter?  
[10] A I believe it was January 7, 2003.  
[11] Q Do you remember what day of the week January 7,  
[12] 2003 was?  
[13] A I believe it was a Tuesday.  
[14] Q Okay. And you said that was your last working [15] day?  
[16] A It was either that Tuesday or Wednesday, January  
[17] 7th or January 8th.  
[18] Q Okay. Now what prompted you not returning back to  
[19] work at that time?  
[20] A I remember I called - both my supervisors were [21] not  
there that day. Steve Gagnon or Fernando Messer were [22] not in  
the institution that day. Nor was the warden. He [23] wasn't here.  
[24] And I wanted the answers. I wanted to go in R&D [25] and  
work the other shift and I called and I spoke with Lois

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[1] was either those two days.  
[2] Q And the last conversation you had with the warden  
[3] was the Friday before the weekend, correct?  
[4] A Yes.  
[5] Q And he said in that conversation, he said he would  
[6] allow you to work back in Receiving and Discharge?  
[7] A Yes.  
[8] Q So between that conversation with the warden and [9] this  
conversation with Lois Swiderski, did you learn that [10] you would  
not be able to work in Receiving and Discharge [11] from  
someone?  
[12] A Lois Swiderski.  
[13] Q In that first conversation?  
[14] A No. In that second conversation of that day. [15] She's  
the one who told me that I cannot go to R&D. I have [16] to stay  
out in the mailroom until further notice.  
[17] Q Okay. Now the day that you spoke to Lois, was [18] this  
after your duty day or before?  
[18] A During.  
[19] Q But you were, were you in the mailroom at this [21] time,  
when you had the conversation with Lois?  
[20] A Yes. I called her from the mailroom.  
[21] Q Okay. So you were working at the time?  
[22] A Yes.  
[23] Q Okay. Did you speak with anyone else that day

[11] saw your doctor?

[12] A It was either January – I believe it was January [13] 8th or January 9th. It was within that week of January 6th [14] that the incident happened.

[15] Q And why did you decide to see your doctor?

[16] A Because I couldn't take it. I though I was being discriminated against because I - I don't know, I just couldn't handle it.

[19] Q What was it that you couldn't handle?

[20] A That I wasn't allowed to work in R&D. In [21] Receiving and Discharge when I was told I could.

[22] Q And for that reason, you decided to call your [23] doctor?

[24] A Well that's what triggered – I was having my [25] heart - I had a bad anxiety and physical symptoms. That's

[11] A No I don't.

[11] Q Do you still use that medication?

[12] A The Celexa?

[13] Q Yes.

[14] A No.

[15] Q When did you stop using it?

[16] A I don't remember.

[17] Q Do you still take the Effxor?

[18] A No.

[19] Q When did you stop using that?

[20] A A few months after I starting taking it. I just [21] know it wasn't effective for me.

[22] Q Okay.

[23] A The side effects weren't good I should say.

[24] Q You said a few months. You were using it for two [25] or three months?

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[1] why I called my doctor.

[2] Q Okay. And what's the name of your doctor that you [3] called?

[4] A George Milowe.

[5] Q What kind of doctor is George Milowe?

[6] A He's a psychiatrist.

[7] Q Were you seeing George Milowe prior to January 8, [8] 2003?

[9] A Yes.

[10] Q When did you begin seeing him?

[11] A It was either February or March of 2002.

[12] Q And why did you start seeing him in February or [13] March of 2002?

[14] A Because I was really depressed. I was in an [15] abusive relationship and I didn't know why I kept staying in [16] there in the relationship. And I really needed help.

[17] Q At any point between February or March of 2002 and [18] January 8, 2003, did Dr. Milowe prescribe you any

[19] medication?

[20] A Yes.

[21] Q What did he prescribe you?

[22] A Several medications. It was trial and error type [23] of medications. Celexa, Tobermax, Clonapin. There was [24] another medication for sleeping but I don't know the name of [25] it. Prozac, Effxor.

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[1] A Maybe three or four.

[2] Q Okay. You said Tobermax?

[3] A Tobermax.

[4] Q Do you know when you began taking that medication?

[5] A No.

[6] Q Do you remember when you stopped using that [7] medication?

[8] A No.

[9] Q Clona – What is it? Clonapin?

[10] A Clonapin.

[11] Q Clonapin.

[12] A Clonapin.

[13] Q Okay.

[14] A I'm currently still taking that.

[15] Q Do you remember when you started taking it?

[16] A I believe it was February, March 2002. I've been [17] on and off with the medication.

[18] Q So has it been consistent from February or March

[19] 2002 to present that you've been on the Clonapin?

[20] A No. I don't believe so. I was off of it for [21] awhile.

[22] Q What was that time period when you were not taking

[23] it?

[24] A Recently it was a few months. Probably like May [25] until last week or the week before.

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[1] Q May of?  
 [2] A 2005.  
 [3] Q Okay. Until about a week.  
 [4] A A week or two ago.  
 [5] Q Okay.  
 [6] A And actually, I didn't take it from maybe like [7] January 2004 until I don't remember the exact, I don't [8] remember. It was on and off so I don't remember the dates.  
 [9] Q Okay. Was there something that happened recently [10] that you had to - why you had to start taking it again?  
 [11] A I was actually taking it and I got pregnant and I [12] miscarried. Yeah.  
 [13] Q So the doctor prescribed it again?  
 [14] A Yeah, I wasn't taking it while I was pregnant.  
 [15] Q Okay. You mentioned sleeping medication?  
 [16] A Yes.  
 [17] Q Do you remember when you started to take that [18] medication?  
 [19] A Dr. Milowe prescribed it in February or March when [20] I started to see him, 2002. And I didn't like it. It made [21] me really groggy so he told me to stick with the Clonapin, [22] he said it relaxes you and so I really haven't been using [23] sleeping medication that much. I tried it but it didn't [24] work for me.  
 [25] Q How long did you try it for?

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[1] A Maybe a week.  
 [2] Q Okay. And you said you were also prescribed [3] Prozac?  
 [4] A Yes.  
 [5] Q Do you remember when Dr. Milowe prescribed that?  
 [6] A No. I don't remember. I'm currently on it now [7] from a different doctor but I don't remember.  
 [8] Q Do you have a memory of Milowe prescribing the [9] Prozac?  
 [10] A Yes I believe so.  
 [11] Q Okay.  
 [12] A I mean there might be some medications I'm [13] missing. But through trial and error there were a lot of [14] medications that I was on. So I don't know if I have the [15] exact list.  
 [16] Q Before Dr. Milowe, had you ever been treated by [17] any other mental health prescriber?  
 [18] A No.  
 [19] Q So, he's the first psychiatrist that you've seen [20] in your lifetime?  
 [21] A Yes.  
 [22] Q Okay. So you said after you left work on the 8th, [23] you called Dr. Milowe?  
 [24] A Yes.  
 [25] Q And you went in to see him the following day?

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[1] A Yes. I'm not sure if I left on the 7th or the [2] 8th.  
 [3] Q Okay. And you testified that what prompted you to [4] call Dr. Milowe was being told that you wouldn't be allowed [5] to work back at R&D? Is that your testimony?  
 [6] A No. It was more I thought I was having a [7] breakdown. A physical aspect. My heart was racing really [8] quick and I think it was caused by them telling me that I [9] still had to stay out in the mailroom. But I called Dr. [10] Milowe because I was nervous too. Physically.  
 [11] MR. WILMOT: Okay. Can we go off the record for a [12] moment?  
 [13] (Off the record from 3:54 to 3:55 p.m.)  
 [14] BY MR. WILMOT:  
 [15] Q What do you remember about your meeting with Dr. [16] Milowe the next day?  
 [17] MS. MCDONALD: Can we go off the record for one [18] second?  
 [19] MR. WILMOT: Sure.  
 [20] (Off the record from 3:55 to 3:55 p.m.)  
 [21] BY MR. WILMOT:  
 [22] Q What do you remember about your conversation with [23] Dr. Milowe the next day?  
 [24] A The following day? I just told him, I just [25] probably, I just couldn't handle it. I felt like work was

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[1] discriminating against me.  
 [2] I was, you know, my prior symptoms were, like, I [3] was nervous all the time and everything and they seemed to [4] be getting worst those past twenty-four hours. I just [5] couldn't handle it.  
 [6] Q Did you tell Dr. Milowe in that meeting that you [7] were afraid that Reynoso was going to harm you?  
 [8] A I don't know if I did in that meeting.  
 [9] Q Okay.  
 [10] A I don't remember.  
 [11] Q Do you remember asking Dr. Milowe to write a note [12] for you so you could produce it to your employer?  
 [13] A Yes.  
 [14] Q What did you ask him?  
 [15] A See, he was encouraging me to leave the Bureau you [16] know, throughout this whole thing. So I just think he said [17] it's not - mentally, you shouldn't go back because mentally [18] you're not ready to go back or go in because I was so upset.  
 [19] I don't remember how the note came about but I [20] said you need to write me a note. I might have. But I [21] don't remember.  
 [22] Q Did you have an attorney by this point?  
 [23] A No.  
 [24] MR. WILMOT: Okay. I'm going to show you what has [25] been marked as Exhibit 40.

BSA

**Depo-O'Donnell V Gonzales, 04-40190-FDS - Depo of Colleen O'Donnell - 08/24/05 XMAX(48/48)**

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[1] Q Have you ever seen this document before?  
 [2] A It doesn't look familiar.  
 [3] Q Well, can you identify what it is?  
 [4] A It's a memorandum from Steve Gagnon to the warden.  
 [5] Q And what's the date on this memo?  
 [6] A January 9, 2003.  
 [7] Q Okay. There it says that on Thursday, January 9, [8] 2002 at approximately 8:45 a.m. I spoke with Ms. Colleen [9] O'Donnell. Now it's dated January 9, 2003 and likely [10] there's a typo in the text of the memo, but do you remember [11] speaking with Steve  
 [25] Q Okay. Do you remember at all speaking with Steve

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[1] Gagnon about having to provide additional information  
 [2] concerning your reasons for being out of work at that time?  
 [3] A I remember, yeah, him requesting, telling me I [4] needed more doctor's notes or things like that.  
 [5] Q Okay.  
 [6] A But I don't remember anything specific.  
 [7] Q Do you remember what your response was to that  
 [8] request from Steve Gagnon?  
 [9] A No I don't.  
 [10] Q Okay. Is it your memory that Dr. Milowe provided  
 [11] you this note that's dated January 8, 2003 on the day that  
 [12] you met with him?  
 [13] A Yes.  
 [14] Q Okay. And do you remember if you went to work the  
 [15] same day that you met with the doctor?  
 [16] A No, I did not.  
 [17] Q You did not?  
 [18] A No.  
 [19] Q Okay. Do you know who you spoke with on January  
 [20] 8, 2003 to inform the BOP that you would not be coming in to  
 [21] work?  
 [22] A No, I don't.  
 [23] MR. WILMOT: Okay. I am going to show you what [24] has been marked as Exhibit 42. [25] //

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[1] (DOJ Exhibit No. 42 was marked for [2] identification.)  
 [3] BY MR. WILMOT:  
 [4] Q Do you recognize this document?  
 [5] A Yes.  
 [6] Q Can you identify what it is?  
 [7] A It's from the Bureau of Prisons to me, asking me [8] to release my medical information and wants me to sign  
 [9] something to send to my doctor to release my medical  
 [10] information.  
 [11] Q Okay. And do you remember how you received this  
 [25] A I spoke with the union first regarding it and then

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[1] I contacted an attorney.  
 [2] Q And that was all on which date?  
 [3] A I don't know the exact date of it. I know after [4] receiving this document but I don't know the exact date.  
 [5] Q Did you speak to anyone in HR or any of your  
 [6] supervisors about this letter dated January 9, 2003 in that  
 [7] timeframe that we—  
 [8] A I don't remember.  
 [9] Q Okay. Do you have a memory of speaking with Cindy  
 [10] Lord on January 14, 2003 about providing additional  
 [11] documentation to support your being out of work at that  
 [12] time?  
 [13] A I don't remember the date but I do remember  
 [14] speaking with her regarding additional documentation.  
 [15] Q Okay.  
 [16] A But I don't remember dates.  
 [17] Q What do you remember about the conversation?  
 [18] A She wanted me to resign the release. I don't  
 [19] remember. That's all I remember.  
 [20] Q Do you remember telling her that you would sign [21] the  
 release?  
 [22] A I was going to, yes. I think I did.  
 [23] Q Do you remember if you called her or she called  
 [24] you?  
 [25] A I don't remember.

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[1] Q Okay. Do you remember if you asked for more time [2] to provide the information?

[3] A The documentation from my doctor?

[4] Q Yes.

[5] A I remember I was going to sign it because I [6] thought that was the right thing to do so I think I might [7] have asked for more time to talk to my attorney.

[8] Q Okay. Do you remember anything you spoke about in [9] that conversation?

[10] A No.

[11] Q Do you remember if you discussed at all the [12] Voluntary Leave Program?

[13] A I remember I discussed it. I just don't remember [14] when I discussed it.

[15] Q Do you remember discussing the Leave Without Pay [16] procedures in that conversation?

[17] A I do. I remember discussing that with her.

[18] Q What did Ms. Lord say about those procedures?

[19] A I remember the Voluntary Leave Program. Was there [20] a form I had to fill out? And I had to have medical [21] documentation, I don't remember exactly. But I know I had [22] to have medical documentation to back up why I was going for [23] this, and also Leave Without Pay or Advanced Leave is to be [24] written to the warden. He makes that decision with - and [25] to have documentation to back it up.

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[1] A No, because I remember I was going to sign the [2] waiver for them but I don't recall letting them speak, [3] saying oh yeah, go ahead and speak to them. I don't know [4] though. I don't remember.

[5] Q Do you have a memory of ever signing the waiver [6] and delivering that to the Bureau?

[7] A No I don't.

[8] MR. WILMOT: Okay. I am going to show you a [9] document marked as Exhibit 44.

[10] (DOJ Exhibit No. 44 was marked for [11] identification.)

[12] BY MR. WILMOT:

[13] Q Do you recognize that document?

[14] A Yes I do.

[15] Q Can you identify what it is please?

[16] A It is a letter from my attorney Sam Rizzitelli, [17] Samuel Rizzitelli, to the warden and to Cynthia Lord.

[18] Q What is the date of this letter?

[19] A January 21, 2003.

[20] Q Do you know whether before January 21, 2003, you [21] had notified the warden or any other supervisor or anyone in [22] HR, that Sam Rizzitelli was your counsel?

[23] A No because there was some confusion on that so I [24] don't think I did. I'm not positive.

[25] Q Do you remember when you retained Mr. Rizzitelli

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[1] MR. WILMOT: Okay. I am showing you what has been [2] marked as Exhibit 43.

[3] (DOJ Exhibit No. 43 was marked for [4] identification.)

[5] BY MR. WILMOT:

[6] Q Do you recognize that document?

[7] A Yes I do.

[8] Q Can you identify what is please?

[9] A It's a memorandum from me to the warden requesting [10] Advanced Leave.

[11] Q Do you remember if you provided any information [12] with this request?

[13] A I don't remember if I did.

[14] Q And what's the date of this memo?

[15] A January 21, 2003.

[16] Q Okay. Do you remember whether between the date of [17] Dr. Milowe's memo which is January 8, 2003 and January 21, [18] 2003, if you provided any additional medical documents to [19] the Bureau?

[20] A I don't remember. I remember I provided them in [21] the past. I just don't remember the dates I provided them.

[22] Q Do you remember during that same timeframe, that [23] you granted the Bureau permission to speak with Dr. Milowe?

[24] A To speak with Dr. Milowe?

[25] Q About your condition?

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[1] as your counsel?

[2] A I don't. It was in January but I just don't [3] remember when.

[4] MR. WILMOT: Okay. I am going to show you what [5] has been marked as Exhibit 45.

[6] (DOJ Exhibit No. 45 was marked for [7] identification.)

[8] BY MR. WILMOT:

[9] Q Can you identify what this document is?

[10] A It's a memorandum from Steve Gagnon and the [11] assistant manager to Warden Winn.

[12] Q And this document describes, Steve Gagnon [13] describes a conversation with you on Tuesday, January 21, [14] 2003 where he relayed to you that the warden received a [15] letter from your attorney. Do you remember this [16] conversation at all?

[17] A Somewhat I do actually.

[18] Q What do you remember about it?

[19] A My attorney wanted me to call, my former attorney [20] wanted me to call Steve Gagnon to find my status out, what [21] was going on. He - I don't remember the whole - I just [22] remembered him what would it take to have me come back, what [23] do I need in able to come back. And I said Reynoso not to [24] be there.

[25] Q For Reynoso not to be there?

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[1] A Yes.

[2] Q Do you remember what your exact words were?

[3] A No, I'm paraphrasing.

[4] Q Okay. Do you remember if you asked for Reynoso to be terminated?

[5] A I don't remember if I asked for that.

[7] Q And what was Mr. Gagnon's response to your statement concerning Mr. Reynoso?

[9] A He asked me, I don't remember. I just remember [10] that part of the conversation where he said you know, what [11] do you need to come back to work. I remember that but I [12] don't know how the whole conversation went.

[13] Q Do you remember if he discussed to you the procedures for applying for Leave?

[15] A I don't know if he discussed it with me.

[16] Q Do you remember if he informed you that you were running out of annual and sick leave?

[18] A Yes he did. He did tell me that.

[19] Q Okay. Do you think that in telling you that he [20] would also have told you that you should probably apply for [21] some kind of Leave so you continue to stay out of work?

[22] A He might have. I just don't remember. I remember [23] him stating that I don't have much sick or vacation time [24] left.

[25] Q Do you remember anything else about that

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[1] vacation or sick time.

[2] Q And did you fill out this form?

[3] A I don't remember.

[4] Q Do you remember if you spoke with Mr. Gagnon about [5] the content of this letter dated January 23, 2003?

[6] A No I don't.

[7] MR. WILMOT: Okay. I am going to show you what [8] has been marked as Exhibit 47.

[9] (DOJ Exhibit No. 47 was marked for [10] identification.)

[11] BY MR. WILMOT:

[12] Q Do you recognize that document?

[13] A Yes I do.

[14] Q Can you identify what it is please?

[15] A It's a letter to me from the warden regarding [16] that's he unable to grant my accommodation request that [17] another staff member be removed.

[18] Q Okay. Do you have a memory of speaking to the [19] warden or any supervisor or anyone in HR about this letter [20] or the content of this letter?

[21] A No, just my attorney. I remember speaking to him [22] about it. Not anyone here.

[23] Q Okay. Now here in the first sentence it says he [24] is unable to grant your accommodation request that another [25] staff member be removed. Do you see that?

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[1] conversation?

[2] A No I don't.

[3] Q Do you remember whether you provided any medical, [4] any additional medical information to the Bureau by January [5] 21, 2003?

[6] A No I don't remember the dates of my medical [7] information.

[8] MR. WILMOT: I am going to show you what is marked [9] as Exhibit 46. It is a two page document.

[10] (DOJ Exhibit No. 46 was marked for [11] identification.)

[12] BY MR. WILMOT:

[13] Q Do you recognize that document?

[14] A Yes.

[15] Q Can you identify what it is please?

[16] A It's a letter to me from Steve Gagnon and my [17] systems manager. It's in response to the request that I [18] requested for Advanced Sick Leave.

[19] Q And when he says in response to your request for [20] Advanced Sick Leave, he is referring to the memo, referring [21] to this memo marked as Exhibit 43 dated January 21, 2003, do [22] you know?

[23] A I don't. Maybe but I don't remember.

[24] Q Okay. And attached to that is what?

[25] A That's an SF71 which is a request for leave, for a

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[1] A I do. Yes.

[2] Q Did you ask that another staff member be removed [3] as an accommodation?

[4] A Yes.

[5] Q And did you say the words you wanted Officer [6] Reynoso removed?

[7] A I don't know the exact words I used.

[8] Q At this point January 27, 2003, what accommodation [9] were you seeking at that time?

[10] A At that point, I still needed to be out of work [11] due to my condition, my medical condition. I still needed [12] to be out of work. So that the accommodation I was looking [13] for I think, I believe, was basically you know, voluntary [14] leave, transfer program, that type of thing. That I would [15] get paid while recovering, while trying to recover from post [16] traumatic stress disorder.

[17] Q Okay. When did Dr. Milowe diagnose you with post [18] traumatic stress disorder?

[19] A The first time I ever heard him diagnose me with [20] anything for the most part was the date of that letter which [21] was January 8, 2003. Prior to that, I think it was that [22] date that he told me that's what I was suffering from.

[23] Q On January 8, 2003?

[24] A Yes. On January 8, 2003.

[25] Q He never told you had post traumatic stress

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[1] disorder prior to that date?  
 [2] A Not that I can recall.  
 [3] Q Okay. Other than that diagnosis, did he ever [4] diagnose you with anything else during the time that you [5] were receiving the treatment from him?  
 [6] A Yes actually. He told me I suffered from [7] depression.  
 [8] Q And when did he tell you that?  
 [9] A Throughout my treatment. From February 2002 until [10] January 8, before I heard about the post traumatic stress [11] disorder. He said depression, battered woman syndrome and [12] anxiety.  
 [13] Q And when did he diagnose you with battered woman [14] syndrome?  
 [15] A Throughout our conversations through the months. [16] I don't remember the exact months. This is what he would [17] tell me that you know, what I'm suffering from.  
 [18] Q Do you know if it was early on in your treatment [19] that he told you that?  
 [20] A Yes it was actually.  
 [21] Q As early as February or March of 2002?  
 [22] A It could have been.  
 [23] Q And you said he also diagnosed you with anxiety [24] problems?  
 [25] A Yes.

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[1] Q And you said that he had diagnosed you with [2] depression. Did he ever tell you that you were no longer [3] suffering from depression?  
 [4] A No, he never did.  
 [5] Q Okay. Are you still suffering from depression [6] today?  
 [7] A Yes.  
 [8] Q And did you see Dr. Milowe soon after the incident [9] at Mirror Lake in April of 2002?  
 [10] A I don't remember when my next appointment was or [11] anything so I don't remember.  
 [12] Q Do you remember discussing that incident with Dr. [13] Milowe?  
 [14] A Yes.  
 [15] Q Do you remember if you discussed it with him soon [16] after the incident occurred?  
 [17] A I don't remember.  
 [18] Q Okay.  
 [19] A I believe I was seeing him every four to six [20] weeks. So I don't remember exactly when my appointment was [21] after that.  
 [22] Q Do you remember if you did see Dr. Milowe in 2002, [23] following the incident in April 2002 at Mirror Lake?  
 [24] A Yes I did.  
 [25] Q Okay. But he did not diagnose you with post

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[1] Q When did he tell you that?  
 [2] A In the beginning. All, the depression, the [3] anxiety, the battered woman, it was all in the beginning.  
 [4] Q Okay.  
 [5] A We discussed what he believed I was suffering from [6] and from then on, we discussed treatments.  
 [7] Q Okay. Do you know whether there was any point [8] where he said that you were no longer suffering from [9] anxiety?  
 [10] A He's never said that to me, no.  
 [11] Q So you still suffer from anxiety issues today?  
 [12] A Yes.  
 [13] Q Has he ever told you that you no longer suffer [14] from the battered woman syndrome?  
 [15] A No.  
 [16] Q Do you believe that you still suffer from that [17] today?  
 [18] A No.  
 [19] Q When do you think that you stopped suffering from [20] that syndrome?  
 [21] A Within the last year, I've got myself together [22] with that. Within the last year.  
 [23] Q Okay. When you say within the last year, do you [24] mean within 2005?  
 [25] A 2005, yes.

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[1] traumatic stress disorder until January 8, 2003?  
 [2] A As far as I knew he never said that to me. No. [3] So has never said that I suffered from that until January [4] 8th.  
 [5] MR. WILMOT: Okay. I am going to show you what [6] has been marked as Exhibit 48.  
 [7] (DOJ Exhibit No. 48 was marked for [8] identification.)  
 [9] BY MR. WILMOT:  
 [10] Q Do you recognize that document?  
 [11] A Yes I do.  
 [12] Q Can you identify what it is?  
 [13] A That is my application for a Voluntary Leave [14] Transfer Program.  
 [15] Q Okay. If you can turn back to the previous [16] exhibit. It's when – point your attention to the last [17] paragraph. There it says additionally you verbally [18] requested information regarding the Voluntary Leave Transfer [19] Program. As stated in the Program Statement you must apply [20] to become a recipient. Do you see that?  
 [21] A Yes I do.  
 [22] Q Do you remember having a conversation with the [23] warden about the Voluntary Leave Transfer Program before the [24] date of this letter, January 27, 2003?  
 [25] A No, I don't think I did.

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[1] Q Do you remember having a conversation with him at [2] any point about the Voluntary Leave Transfer Program?  
 [3] A I don't remember.  
 [4] Q Okay. Did you submit the application that is [5] marked as Exhibit 48 after receiving this letter that is [6] marked as Exhibit 47?  
 [7] A I don't - according to the dates, I did. But I [8] don't remember. According to the dates, it seems I [9] submitted this after the letter.  
 [10] Q Okay. Looking at Exhibit 47, in the second [11] paragraph it says I have provided accommodation for a [12] situation since April 2002 and I have been willing to [13] provide accommodation by assuring that you work different [14] shifts. I can further restrict his work area to the camp if [15] you believe this would be a viable accommodation.  
 [16] Do you see that there?  
 [17] A Yes I do.  
 [18] Q In reading that, did you believe that would [19] accommodate your post traumatic stress disorder and allow [20] you to return to work?  
 [21] A Yes, actually that was one of the things that we [22] discussed. Having him out of the camp so I could get back [23] to normal so to speak.  
 [24] Q When you say, we discussed, who is we?  
 [25] A My former attorney, Sam Rizzitelli.

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[1] Q So fair to say on January 27, 2003 around that [2] timeframe, that there was no accommodation that would have [3] allowed you to return to work?  
 [4] A I would have to say, yeah, I couldn't return to [5] work by doctor's orders. So I don't know if there was an [6] accommodation that would let me go back to work. I don't [7] know.  
 [8] Q Well when I turn back to the doctor's note which [9] is January 8, 2003 - in Dr. Milowe's letter dated January [10] 8, 2003 he says that if patient's assailant was not on her [11] work premises at all, Ms. O'Donnell would be able to work [12] full-time without restrictions. Do you see that?  
 [13] A Yes I do.  
 [14] Q So you were saying at that time, around January [15] 27, 2003, you don't think you would have been able to return [16] to work at all?  
 [17] A I don't think I would have been able, no.  
 [18] Q Okay. So even if Mr. Reynoso was not on the [19] premises at all, you still were not ready to come back to [20] work at this time?  
 [21] A On January 8, 2003?  
 [22] Q Yeah.  
 [23] A That is correct, I wouldn't be able to that day.  
 [24] MS. MCDONALD: What date?  
 [25] THE WITNESS: January 2003.

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[1] MS. MCDONALD: You're not to testify about [2] anything you discussed with any attorney that you ever had.  
 [3] THE WITNESS: Oh, okay.  
 [4] MR. WILMOT: That's okay.  
 [5] THE WITNESS: I discussed with him on-  
 [6] MR. WILMOT: You don't even want-  
 [7] MS. MCDONALD: You don't even want to go there.  
 [8] THE WITNESS: Okay. Sorry.  
 [9] BY MR. WILMOT:  
 [10] Q Did you believe this accommodation would [11] accommodate - or this proposed accommodation from the [12] warden would accommodate your situation? That being [13] having [14] post traumatic stress disorder?  
 [14] A I believe that it would have accommodated it at [15] some time, yes.  
 [16] Q Would it accommodate the situation at this time in [17] January?  
 [18] A No.  
 [19] Q In January 2003?  
 [20] A No.  
 [21] Q And why not?  
 [22] A Mentally, I still was really, I was still having [23] bad anxiety attacks three times a day and I was like, having [24] a hard time sleeping and so it wouldn't be wise for me to [25] come back at that time.

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[1] MS. MCDONALD: 8th?  
 [2] THE WITNESS: Yes.  
 [3] BY MR. WILMOT:  
 [4] Q Well this letter dated January 27, 2003. Would [5] you have been able to return to work at that time even if [6] Officer Reynoso was not on the premises?  
 [7] A I might have been able to. I don't remember.  
 [8] Q Okay.  
 [9] A I don't remember exactly my mental state at that [10] time. I know I was having really bad anxiety attacks but [11] you know, I don't remember.  
 [12] Q Okay.  
 [13] A I just specifically remember the January 8th day.  
 [14] that's why I said that.  
 [15] Q Okay. So when you received this letter dated [16] January 27, 2003 and you read the proposed accommodation of [17] the warden saying that he would continue to make sure you [18] worked different shifts from Officer Reynoso and that he [19] would restrict Reynoso from the camp, did you believe that [20] proposed accommodation would allow you to return back to [21] work without restrictions?  
 [22] A Yes I think at that day, I think, I don't [23] remember, I think that was something that they were going to [24] work out so that I would be able to try to come back to [25] work.

BSA

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[1] Q Okay.  
 [2] A Again, I just don't remember my mental state on  
 [3] January 27th.  
 [4] Q Okay. Did anyone discuss with you verbally this  
 [5] proposed accommodation that of restricting Officer Reynoso  
 [6] to camp?  
 [7] A Yes.  
 [8] Q And who was that, other than your attorney?  
 [9] A No.  
 [10] MR. WILMOT: Okay. I am going to show you what is  
 [11] marked as Exhibit 49.  
 [12] (DOJ Exhibit No. 49 was marked for [13] identification.)  
 [14] BY MR. WILMOT:  
 [15] Q Do you recognize that document?  
 [16] A Yes I do.  
 [17] Q Can you identify what it is for me please?  
 [18] A It's a letter from Dr. George Milowe to Steve [19] Gagnon.  
 [20] Q Do you remember how you delivered that or whether  
 [21] you delivered this to the Bureau?  
 [22] A I believe it was faxed.  
 [23] Q Okay. Do you know who it was faxed to?  
 [24] A No I don't.  
 [25] Q Okay. Do you remember why you sent this letter at

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[1] Q If you were back at work, under what conditions [2] would  
 you have been working?  
 [3] A I would have been restricted to the mailroom, as [4] far as  
 I knew. That was the last, that January 7th or 8th, [5] was the last  
 day I was at work and I was restricted to the [6] mailroom.  
 [7] Q Okay. Did Officer Reynoso work in the mailroom?  
 [8] A No.  
 [9] Q Did he ever have any reason to be at the mailroom [10] in  
 the normal course of his duties and functions?  
 [11] A Yes.  
 [12] Q And what would that be?  
 [13] A To read the SIS mail that we put aside for them. [14] It  
 means they're on the hot list. That we have to put [15] aside. SIS is  
 required to come out once daily to read it [16] just to see if there is  
 anything that needs to be taken back [17] or whatever.  
 [18] Q During the time that you were still working and  
 [19] working in the mailroom, did you ever, was there ever an  
 [20] occasion where Officer Reynoso went to the mailroom to  
 [21] perform that function you just described while you were  
 [22] there?  
 [23] A No.  
 [24] Q Okay. And if you still were working on January [25] 31,  
 2003, what would your hours have been at that time?

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[1] this time?  
 [2] A No I don't remember.  
 [3] Q Do you remember when you faxed this letter?  
 [4] A No.  
 [5] Q Now in looking at this letter, what is the date on [6] this  
 letter?  
 [7] A January 31, 2003.  
 [8] Q Did you read this letter before you sent it to the  
 [9] Bureau?  
 [10] A I believe so, yes.  
 [11] Q Did you agree with what the doctor was stating in  
 [12] this letter?  
 [13] A Yes I did.  
 [14] Q Let's bring your attention to the second [15] paragraph. It  
 says there working the same environment as [16] her assailant  
 merely intensifies her symptoms and does not [17] give her a  
 chance to heal. Common sense and goodwill would [18] dictate  
 that Ms. O'Donnell not be required to work in the [19] same facility  
 at the same time as Mr. Reynoso. Do you see [20] that there?  
 [21] A Yes I do.  
 [22] Q At this time, you were still at home at this time, [23] but  
 what were your restrictions, your work restrictions at [24] that time?  
 [25] A I don't understand the question.

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[1] A I don't know.  
 [2] Q Okay.  
 [3] A Because I left. I think it was 7:30 to 4:00.  
 [4] Q Okay.  
 [5] A And I got the letter FedExed saying they were [6] going to  
 change me to 9:30 to 6:00.  
 [7] Q Okay.  
 [8] A But I don't know.  
 [9] Q Okay. Now here in the second sentence of this  
 [10] second paragraph, it says that Ms. O'Donnell should, I'm  
 [11] filling in some words for it to make sense, should not be  
 [12] required to work in the same facility at the same time as  
 [13] Mr. Reynoso. Do you see that?  
 [14] A Yes I do.  
 [15] Q Did that happen during the period after the [16] incident  
 at Mirror Lake up to the time that you went out on [17] Leave?  
 Where you would work at the same facility as Mr. [18] Reynoso at  
 the same time?  
 [19] A I know they scheduled us for training together but [20] I  
 don't think there was a time that we worked at the [21] facility  
 together after that incident at Mirror Lake. I [22] don't ever, I don't  
 recall an incident where we worked.  
 [23] Q Okay. It also says in the second to last [24] paragraph,  
 recovery is unlikely until the two are separated. [25] Do you see  
 that?

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[1] A Yes I do.  
 [2] Q Isn't it true that after the incident at Mirror [3] Lake, that you and Mr. Reynoso were separated on the [4] premises?  
 [3] A Yes.  
 [6] Q Okay. So when you sent this letter and he's [7] requesting that you not work in the same facility at the [8] same time and that you be separated, didn't the Bureau [9] already provide that situation to you?  
 [10] A Yes they did.  
 [11] MR. WILMOT: Okay. I am going to show you what [12] has been marked as Exhibit 50.  
 [13] (DOJ Exhibit No. 50 was marked for [14] identification.)  
 [15] BY MR. WILMOT:  
 [16] Q Do you recognize this document?  
 [17] A Yes I do.  
 [18] Q Can you identify what it is?  
 [19] A It's a letter from my former attorney to the [20] warden.  
 [21] Q And what is it stating in this letter?  
 [22] A That he is now representing me and to correspond with him directly. So to go through him for everything.  
 [24] Q Now it says in the third paragraph starting with [25] the second sentence, you have advised Colleen that you would

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[1] Q Can you identify what it is please?  
 [2] A That's a letter, memorandum to me from the [3] Associate Warden Rick Barnes, who is also the Voluntary [4] Leave Transfer Program Screening Chairperson. I got that [5] all out. Denying my request for Voluntary Leave.  
 [6] Q Okay. So that was the prior, the application that [7] you identified earlier, Voluntary Leave Application?  
 [8] A The application. Yes, that is the application I [9] filled out.  
 [10] Q What is the Exhibit number on that application?  
 [11] A 48.  
 [12] Q Okay. How is this memo, the February 10, 2003 [13] memo delivered to you?  
 [14] A I don't recall. It could have been through FedEx. [15] I don't recall.  
 [16] Q Okay. Did anyone notify you that your application [17] would be denied by telephone?  
 [18] A I want to say someone from the union called me and [19] told me that it was denied.  
 [20] Q Okay. Do you know who from the union called you?  
 [21] A No I don't. No, I don't remember who called me [22] from the union.  
 [23] Q Okay. Now the date on this memo is February 10, [24] 2003. In the last paragraph there it says your medical [25] emergency is based on another staff member's employment with

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[1] be willing to restrict Officer Reynoso to the camp. This [2] might be a responsive accommodation and we thank you for [3] such. Please elaborate on this proposed resolution so that [4] we may fully understand any impact on Colleen. Do you see [5] that there?  
 [6] A Yes.  
 [7] Q Were you confused at what the warden meant by [8] restricting Officer Reynoso to the camp?  
 [9] A Was I confused?  
 [10] Q Yes.  
 [11] A No. I don't think so.  
 [12] Q Did you understand what he meant by putting [13] Officer Reynoso at the camp and restricting him to that [14] area?  
 [15] A Yes.  
 [16] Q And what does that mean?  
 [17] A That would be where he works. His duty hours [18] would be off the grounds and at the camps.  
 [19] MR. WILMOT: Okay. I am going to show you what [20] has been marked as Exhibit 51.  
 [21] (DOJ Exhibit No. 51 was marked for [22] identification.)  
 [23] BY MR. WILMOT:  
 [24] Q Do you recognize that document?  
 [25] A Yes I do.

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[1] the Bureau Prisons and you would be able to return to work [2] if the other individual was no longer employed.  
 [3] Do you see that there?  
 [4] A Yes.  
 [5] Q At this point February 10, 2003, if Officer [6] Reynoso was not working at the Bureau of Prisons, would you [7] have been able to return to work?  
 [8] A I believe so. But again, I don't remember my [9] state of mind at that point. But I believe I would be able [10] to.  
 [11] Q Do you have reason to doubt that you would not [12] have been able to return to work at that time, February 10, [13] 2003?  
 [14] A I don't remember. Yes, because I don't remember [15] how I was at that point.  
 [16] Q Okay. So is it fair to say that it's possible [17] that you were not in the right state of mind to return back [18] to work at that time even if Officer Reynoso was not on the [19] premises?  
 [20] A No, I would not say that.  
 [21] Q Okay. Now the date of your Voluntary Leave [22] Application is January 27, 2003.  
 [23] A Okay.  
 [24] Q And if you can just turn to the second page of [25] that. Is this your handwriting in this block, that's number

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[1] 18?  
 [2] A No.  
 [3] Q Whose handwriting is that?  
 [4] A That is Dr. Milowe.  
 [5] Q Okay. So do you remember taking this document to  
 [6] Mr. Milowe or sending it to him in some way when you filled  
 [7] this out?  
 [8] A Yes. I brought this to him.  
 [9] Q Okay. Now at the end of this document it says  
 [10] severity of emergency severe. It is recurring with daily  
 [11] symptoms. Duration is likely to be lengthy, indefinite.  
 [12] Many, many years as long as patient is forced to work with  
 [13] David Reynoso. Do you see that there?  
 [14] A Yes.  
 [15] Q Now at this time as you described before, if you  
 [16] returned to work under the restrictions that you were under  
 [17] and Mr. Reynoso was still working the restrictions he was  
 [18] working, would you ever have to work together?  
 [19] A Yes.  
 [20] Q How?  
 [21] A If there was an emergency. An institutional  
 [22] emergency.  
 [23] Q Other than, how often do emergencies happen at the  
 [24] institution?  
 [25] A Not very often. But there has been when we have

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[1] take a break. Why don't we go off the record here, we will  
 [2] continue on Friday.  
 [3] (Whereupon, at 5:00 p.m., the above proceedings [4] were  
 adjourned to continue on Friday, the 26th of August, [5] 2005, to  
 commence at 10:00 a.m.)

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[1] to stay late. You know, when it was required that we had to  
 [2] stay late because of an emergency.  
 [3] Q From the date of the incident at Mirror Lake to [4] the time  
 when you went out in January 2003, had such an [5] emergency  
 ever happened when you had to stay late?  
 [6] A No.  
 [7] Q Okay. So other than the possibility of an [8] emergency  
 that required you to stay late, would you ever [9] have to work with  
 Mr. Reynoso?  
 [10] A Yes.  
 [11] Q And how would that happen?  
 [12] A If there was nobody over to screen the mail for [13] SIS.  
 He would have to come over and screen the mail. I [14] think that  
 would be it though.  
 [15] Q After the incident at Mirror Lake in 2002 up to [16] the  
 time that you went out in January of 2003, did that ever  
 [17] happen?  
 [18] A That never happened, no.  
 [19] Q Okay. So other than those two circumstances you  
 [20] described, would you ever have to work with Mr. Reynoso if  
 [21] you were both working under the restrictions that you were  
 [22] put under up to the point that you went out on leave?  
 [23] A No, not that I can think of.  
 [24] MS MCDONALD: It's 5:00.  
 [25] MR. WILMOT: Is it? It's probably a good point to

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[1] C E R T I F I C A T E [2] COMMONWEALTH OF  
 MASSACHUSETTS)  
 ) SS. [3] COUNTY OF SUFFOLK )  
 ) I, Marilyn D. Franklin, a Court Reporter and [5] Notary Public,  
 within and for the Commonwealth of [6] Massachusetts, do hereby  
 certify that there came before me [7] on this 24th day of August,  
 2005, the person hereinbefore [8] named, who was by me duly  
 sworn to tell the truth, the whole [9] truth, and nothing but the  
 truth, concerning and touching [10] the matter in controversy in  
 this cause; that she was [11] thereupon examined upon her oath,  
 and her examination [12] reduced to typewriting, under my  
 direction, and that this [13] deposition transcript is a true and  
 accurate record of the [14] testimony given by the witness.  
 [15] I further certify that I am not related to any of [16] the parties  
 hereto or their counsel, and that I am in no way [17] interested in  
 the outcome of said cause.  
 [18] Dated at Boston, Massachusetts, this 8th day of  
 [19] September, 2005.  
 [21] Marilyn D. Franklin  
 [22] NOTARY PUBLIC  
 My Commission Expires:  
 [23] August 18, 2011

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[1] MR. WILMOT: Mark that please.  
 [2] (Exhibit No. 55 was marked for [3] identification.)  
 [4] BY MR. WILMOT:  
 [5] Q I'm showing you what has been marked as Exhibit [6] 55.  
 Will you take a second to read that document?  
 [7] (Pause.)  
 [8] BY MR. WILMOT:  
 [9] Q Can you identify what that document is?  
 [10] A That's a memorandum from Steve Gagnon, Inmate  
 [11] Systems Manager, to the Warden regarding a phone call he  
 [12] received from me on March 20th, 2003.  
 [13] Q Do you remember speaking with Steve Gagnon on  
 [14] March 20th, 2003?  
 [15] A Yes.  
 [16] Q What can you tell me about that conversation?  
 [17] A I called him to ask him the status of my [18] employment  
 here.  
 [19] I think he told me I was on AWOL, but I'm not a [20] 100  
 percent, and I know he said - he asked when will I - [21] when do  
 I think I will be able to return to work.  
 [22] Q And what did you say?  
 [23] A I basically told him that I was hoping to return [24] soon. I  
 don't remember giving him a date.  
 [25] Q Here, his note says that you stated that you want

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[1] A Yes.  
 [2] Q What's the date of this - of your signature?  
 [3] A March 19th, 2003.  
 [4] Q Okay. If you could flip back just one page, and [5] I'm  
 going to ask you this question:  
 [6] Your signature, what were you signing this [7] document -  
 what were you attesting to by signing this [8] document?  
 [9] A That I agreed with what he wrote down.  
 [10] Q If you could look half-way through the page. [11] there is  
 a paragraph that starts, During the period of April [12] 2002  
 through January 2003, do you see that?  
 [13] A Yes.  
 [14] Q It continues by saying, The complainant alleges [15] that  
 Mr. Reynoso harassed her at work, at FMC Devens through  
 [16] many different means including watching her on video  
 cameras [17] and calling her on institutional telephones.  
 [18] Do you see that?  
 [19] A Yes.  
 [20] Q Is that statement correct?  
 [21] A No.  
 [22] Q And what is incorrect about that statement?  
 [23] A The dates.  
 [24] Q What should the dates read?  
 [25] A Prior to April 2002.

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[1] to return to work on the following Monday, March 24, 2003.  
 [2] Do you see that?  
 [3] A Yes, I do.  
 [4] Q Do you have a memory of telling Mr. Gagnon that?  
 [5] A No, I don't.  
 [6] MR. WILMOT: Mark this as Exhibit 56.  
 [7] (Exhibit No. 56 was marked for [8] identification.)  
 [9] MR. WILMOT: I'm showing you what has been marked  
 [10] as Exhibit 56. Take a moment to review that and let me know  
 [11] when you're finished.  
 [12] We can go off the record while she's reviewing it.  
 [13] (Brief recess.)  
 [14] BY MR. WILMOT:  
 [15] Q Do you recognize that document?  
 [16] A Yes.  
 [17] Q Can you identify what it is, please?  
 [18] A It's a memorandum from Ken Nichols, EEO Counselor,  
 [19] regarding his contact with me; what my claims were.  
 [20] Q Can you flip to the section of this document where  
 [21] the title is, Request for EEO Counseling?  
 [22] Three pages in from there, you just flip two more. [23] One  
 more.  
 [24] On the page, it says Bate Stamp BOP 5073.  
 [25] Is that your signature that appears on this page?

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[1] Q Okay. Now, if you flip back to the page where [2] your  
 signature appears, you list there a number of persons [3] that have  
 information in relation to your claim.  
 [4] Do you see that?  
 [5] A Yes, I do.  
 [6] Q And next to the names, there are statements.  
 [7] For example, the first one says, David Winn, [8] Warden,  
 discriminated against me.  
 [9] Do you see that?  
 [10] A Yes, I do.  
 [11] Q Can you identify, for the record, the persons you  
 [12] name on this page as being persons who discriminated  
 against [13] you?  
 [14] A Yes.  
 [15] David Winn, Warden; Cynthia Lord, Human Resource  
 [16] Manager; Steve Gagnon, Inmate Systems Manager; David  
 [17] Reynoso, Intelligence Officer; Harry Lappin, Director;  
 [18] Michael Bollinger, Captain; Dennis Duffy, Special  
 [19] Investigation Agent; Darren Brown, Special Investigative  
 [20] Agent and Office of Internal Affairs.  
 [21] Q Are there any names that, at this point, you wish [22] to  
 add to that list, of persons that you believe [23] discriminated  
 against you?  
 [24] A No, not that I can think of.  
 [25] Q If you flip two pages after that page, one more,

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[1] Q Referring to the document that we just reviewed, [2] from Steve Gagnon, I believe it's the June 23rd, 2003 [3] letter, Exhibit No. 67?  
 [4] A Yes.  
 [5] Q There it says, You must request leave without pay [6] from the Warden prior to June 30th, 2003.  
 [7] Do you see that?  
 [8] A Yes.

[9] Q Do you have a memory whether or not you requested [10] leave without pay prior to June 30th, 2003?  
 [11] A I don't have a memory of it, just what I see here. [12] But I don't remember it.  
 [13] Q Your memo, which is June 26th, 2003, Exhibit 68; [14] do you remember having a conversation with anyone stating [15] that you should fill out a proper request for leave form if [16] you're going to request any form of leave?  
 [17] A I don't remember if I spoke to anyone regarding [18] it.  
 [19] Q Did anyone ever tell you that to request leave [20] that you had to fill out a form in order to do that?  
 [21] A Prior to this date? I'm just confused on the [22] question.  
 [23] Q Prior to that date, sure.  
 [24] A When I first started in the bureau, I was always [25] told that we had to fill this out, request for leave - for

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[1] approved leave if we needed any time off.  
 [2] Q Is there a reason why you didn't fill out a [3] request for leave form, but instead submitted the memorandum [4] that's marked as Exhibit 68?  
 [5] A Not that I can recall. I don't know the reason.  
 [6] Q Now, looking at Exhibit 69, was this request for [7] leave approved?  
 [8] A Yes, it was.  
 [9] Q What dates were you approved for?  
 [10] A Approved leave without pay, from 7/30/2003 to  
 [11] 8/11/2003.  
 [12] Q Now underneath that sentence you just read, what  
 [13] does it say under there?  
 [14] A Ms.O'Donnell must provide an updated doctor's [15] note to me.  
 [16] Q Do you know who wrote this note?  
 [17] A I assume it was the Warden.  
 [18] Q Do you have a memory of providing the Warden with  
 [19] a doctor's note following this request for leave form the  
 [20] day of its approval, which is July 29th, 2003?  
 [21] A I don't think I did.  
 [22] MR. WILMOT: Mark that, please.  
 [23] (Exhibit No. 70 was marked for [24] identification.)  
 [25] BY MR. WILMOT:

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[1] Q Is there a reason why you did not provide the [2] Warden with the information that he was requesting?  
 [3] A Yes.  
 [4] Q And what is that reason?  
 [5] A Advice from a former attorney.  
 [6] Q I'm showing you what has been marked as Exhibit [7] 70.  
 [8] Do you recognize that document?  
 [9] A Yes.  
 [10] Q Can you identify what it is for me, please?  
 [11] A It's a request for leave - approved leave. I [12] requested it - from me, leave without pay, 8/11, August [13] 11th, it doesn't have till when.  
 [14] It says doctor's note will follow when I have my [15] next appointment in September.  
 [16] Q And was this request approved or denied?  
 [17] A Denied.  
 [18] Q Is there any indication in this form as to why it [19] was denied?  
 [20] A Yes.  
 [21] Q What does it say?  
 [22] A Ms.O'Donnell failed to follow my instructions on [23] July 29th, 2003, by not providing an updated doctor's note.  
 [24] Q Okay. And you agree that you did fail to provide, [25] or failed to follow the Warden's instructions to provide an

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[1] updated doctor's note?  
 [2] A Yes, I agree to that, yes. I didn't do that.  
 [3] (Exhibit No. 71 was marked for [4] identification.)  
 [5] BY MR. WILMOT:  
 [6] Q I'm showing you what has been marked as Exhibit [7] 71.  
 [8] MR. WILMOT: I'm going to speed up from here.  
 [9] MS. KELLY MCDONALD: Okay, I've got 15 minutes.  
 [10] BY MR. WILMOT:  
 [11] Q Do you recognize that document?  
 [12] A I do.  
 [13] Q Can you identify what it is for me, please?  
 [14] A It's a memorandum to me from Steve Gagnon, saying  
 [15] that he has tried to contact me by telephone on Tuesday,  
 [16] August 12th, 2003 and Wednesday, August 13th, 2003.  
 [17] He said he left three messages for me to contact [18] him.  
 [19] And then, This is notice that your request for [20] additional leave without pay has been denied as you failed [21] to provide the required medical update as directed on July [22] 29th, 2003.  
 [23] Effective August 13th, 2003, you have been placed [24] on AWOL status.  
 [25] Q Do you have a memory of the three messages that

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[1] Steve Gagnon is referring to in this letter; that he says [2] that he left for you?  
 [3] A No, just one message.  
 [4] Q You only remember one?  
 [5] A Yes.  
 [6] Q Do you remember if you responded to this message?  
 [7] A No, I did not.  
 [8] Q And it says here that you were placed on AWOL [9] status because you had failed to provide the BOP with the [10] required medical update.  
 [11] Do you see that?  
 [12] A I do, yes.  
 [13] Q And again, you agree that you failed to provide [14] the required medical update as you were directed on July [15] 29th, '03?  
 [16] A I agree, I didn't do that.  
 [17] Q Do remember what your next contact with any of [18] your supervisors, or anyone in HR or BOP was?  
 [19] A Most contact was through my former attorney, so I [20] don't remember my contact with them – or his contact.  
 [21] (Exhibit No. 72 was marked for [22] identification.)  
 [23] BY MR. WILMOT:  
 [24] Q I'm going to show you what's been marked as  
 [25] Exhibit 72.

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[1] At the beginning of the second paragraph on that [2] page it says, FMC Devens administration supports Mr. Reynoso [3] even though he is a convicted, violent offender.  
 [4] Do you see that there?  
 [5] A Yes, I do.  
 [6] Q What was Officer Reynoso convicted of?  
 [7] A Domestic assault and battery with a dangerous [8] weapon.  
 [9] Q He's a convicted – and this is in your case?  
 [10] A Yes.  
 [11] Q So your testimony is that he was convicted of that [12] charge?  
 [13] A Yes. He pled guilty.  
 [14] Q Okay. I'm going to ask you to turn to page 7.  
 [15] MS. KELLY MCDONALD: Can we, just for the record, [16] there are two page numbers on there so–  
 [17] MR. WILMOT: I can refer to the Bates stamp [18] number.  
 [19] BY MR. WILMOT:  
 [20] Q Just for the record, the previous page we're [21] reading from was Bates stamped BOP5203.  
 [22] I'm now asking you to look at page BOP5204.  
 [23] The top of the page, under the question, Explain [24] your sex-based discrimination complaint in relation to [25] management failed to provide a reasonable accommodation.

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[1] Would you take a moment to review that document [2] for me, please?  
 [3] MR. WILMOT: We can go off the record while she's [4] reading it.  
 [5] (Off the record from 11:40 a.m. to 11:45 a.m.)  
 [6] BY MR. WILMOT:  
 [7] Q Have you had a chance to review this document?  
 [8] A Yes, I did.  
 [9] Q Can you turn to the last, or second to the last [10] page of this document?  
 [11] On page No. 9, there's a signature on that page. [12] Whose signature is that?  
 [13] A It's my signature.  
 [14] Q What's the date of your signature?  
 [15] A October 18th, 2003.  
 [16] Q After reviewing this document today, do you still [17] believe that it is still true and complete?  
 [18] A I have to take a minute again just to–  
 [19] Q Absolutely.  
 [20] (Pause.)  
 [21] A Yes, I do.  
 [22] Q Yes, you do? You believe it's true and complete?  
 [23] A Yes. Sorry.  
 [24] Q That's okay.  
 [25] Can you flip to page 6 of that document?

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[1] The second paragraph of the answer, last sentence, [2] it says, I'm the only female in the Inmate Systems [3] Management Department.  
 [4] Do you see that there?  
 [5] A I think I'm looking at the wrong–  
 [6] Q This paragraph here, the last sentence.  
 [7] It says, I'm the only female in the Inmate Systems [8] Management Department.  
 [9] Is that true?  
 [10] A On my side on receiving the discharge.  
 [11] Q What do you mean–  
 [12] A I'm the only Inmate Systems officer, female Inmate [13] Systems Officer. Yes.  
 [14] Q On receiving the discharge–  
 [15] A In mail room, yes.  
 [16] Q Are there Inmate Systems Officers?  
 [17] A No – male officers, yes, not female ISOs.  
 [18] Q Okay. So there are no female ISOs at Devens.  
 [19] A No, there is none besides me.  
 [20] Q Now, before you described in your previous [21] testimony from Wednesday, I think you said there were a [22] number of people in the mail room when you came back from [23] Mirror Lake on April 8th, 2002.  
 [24] You said there were some people that were in the [25] mail room at that time?

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[1] you had with Darren Brown?  
 [2] A No. I remember him asking questions regarding my  
 [3] AWOL, but I don't remember the conversation.  
 [4] (Exhibit No. 75 was marked for [5] identification.)  
 [6] Q I'm showing you what has been marked as Exhibit [7] 75.  
 [8] Would you take a moment to read through that [9] document, please?  
 [10] A Sure.  
 [11] (Pause.)  
 [12] All right.  
 [13] Q On the last page of this document, which is Bates  
 [14] stamp BOP0052, there's a signature there above the word,  
 [15] affiant.  
 [16] Do you see that?  
 [17] A Yes.  
 [18] Q Whose signature is that?  
 [19] A That's mine.  
 [20] Q What's the date of your signature?  
 [21] A December 10th, 2003.  
 [22] Q You've had a moment to review this document,  
 [23] correct?  
 [24] A Yes.  
 [25] Q Do you remember if you reviewed this document at

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[1] A It is from my former psychiatrist, Brian Ackerman, [2] to the  
 Warden regarding my current medical condition at the [3] time,  
 which was December 16th, 2003.  
 [4] Q Do you remember why Dr. Ackerman prepared this  
 [5] letter?  
 [6] A Yes.  
 [7] Q Why is that?  
 [8] A They investigated my AWOL and the Warden wanted to  
 [9] talk to me. So I spoke with him and he asked me if I could  
 [10] provide any type of medication I'm on, or anything, and it  
 [11] would just be between me and him. He would be the only one  
 [12] that sees it.  
 [13] And that way he could make a determination on what [14] my  
 discipline would be on AWOL.  
 [15] Q Did you meet with Dr. Ackerman prior to his  
 [16] preparation of this letter?  
 [17] A Yes.  
 [18] Q Do you remember when you met with him?  
 [19] A I don't remember the date, but I remember when the  
 [20] Warden had the conversation with me.  
 [21] I actually had an appointment that day. It was [22] already  
 schedule, so I met with him then.  
 [23] Q What do you remember about your meeting with  
 [24] Dr. Ackerman?  
 [25] A I explained to him about being disciplined for

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[1] the time that you signed it?  
 [2] A Yes.  
 [3] Q Is the content of this document true and accurate?  
 [4] A To the best of my knowledge, yes.  
 [5] Q If you could just turn to the page that's Bates [6] stamped  
 0051; if you look at the sentence that's No. 18, do [7] you see that  
 there?  
 [8] A Yes, I do.  
 [9] Q It says, Both my doctor and my attorney were aware  
 [10] of my relationship with each other.  
 [11] What does that sentence mean?  
 [12] A I forget why – I mean, I forget what he asked me, [13] but  
 my doctor knew that at that point I had an attorney [14] working on  
 my behalf and my attorney knew that I was seeing [15] a doctor –  
 a psychiatrist.  
 [16] Q Do you know whether – strike that.  
 [17] MR. WILMOT: Mark that, please.  
 [18] Thank you.  
 [19] (Exhibit No. 76 was marked for [20] identification.)  
 [21] Q I'm showing you what has been marked as Exhibit  
 [22] 76.  
 [23] Do you recognize that document?  
 [24] A Yes, I do.  
 [25] Q Can you identify what it is for me, please?

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[1] being on AWOL, and that the Warden wanted to know about  
 my [2] condition, the medications I was on, to make his  
 [3] determination on what discipline.  
 [4] That's what I remember.  
 [5] (Exhibit No. 77 was marked for [6] identification.)  
 [7] Q I'm showing you what has been marked as Exhibit [8] 77.  
 [9] Do you recognize that document?  
 [10] A Yes, I do.  
 [11] Q Can you identify what it is for me, please?  
 [12] A It's a memorandum – a letter to me from the [13] Warden.  
 He CC'd my attorney, and it's regarding my return [14] to work.  
 [15] Q What's the date of this document?  
 [16] A November 18th, 2003.  
 [17] Q Do you remember how you received this letter?  
 [18] A I don't remember how I received it. I remember – [19] I  
 thing it might have come in to Human Resources, but I'm [20] not  
 100 percent sure.  
 [21] Q Now, if you turn to the second page there, there's [22] a  
 note there that says, Refused to sign for receipt.  
 [23] I'm not sure what that says there, but it's dated [24] November  
 18th, 2003 by C. Lord.  
 [25] Were you asked to sign this document?